



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 28
2600 North Central Avenue, Suite 1400
Phoenix, AZ 85004

Agency Website: www.nlr.gov
Telephone: (602)640-2160
Fax: (602)640-2178

March 16, 2018

(b) (6), (b) (7)(C)

Re: National Association of Letter Carriers,
Branch 504, AFL-CIO
(United States Postal Service)
Case 28-CB-210892

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that National Association of Letter Carriers, Branch (the Union), has violated the National Labor Relations Act and the Postal Reorganization Act (the Act).

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that the Union violated Section 8(b)(1)(A) of the Act by processing your grievance in an arbitrary and discriminatory manner because you filed a prior charge against the Union and failing to provide you with a copy of or access to your grievance file. Your charge further alleges that the Union violated Section 8(b)(3) of the Act by failing to bargain in good faith with the Employer. The investigation did not establish that the Union violated the Act as alleged.

The investigation disclosed that on (b) (6), (b) (7)(C) 2017, you successfully bid for a higher paying position. On (b) (6), (b) (7)(C) 2017, you learned that you had not been placed at the proper pay step as a result of your new position and had been placed at Step M rather than Step O of pay level CC2. You advised the Union of this on (b) (6), (b) (7)(C) 2017, and within a week, the Union met with management about the issue, filed a grievance on your behalf, took a statement from you, and filed an information request and a supplemental information request to support the grievance. Thereafter, the Union represented you at an informal Step A meeting and promptly advised you of the contents of that meeting.

On (b) (6), (b) (7)(C) 2017, the Union advised you of the terms of a settlement offer and an additional term that needed to be resolved. The settlement included promoting you to Step N with backpay. The Union later arranged for you to receive several weeks' credit toward the waiting period for your next promotion to Step O. On (b) (6), (b) (7)(C) 2017, you filed an unfair labor practice charge in Case 28-CB-209440 against the Union. On (b) (6), (b) (7)(C) 2017, consistent with its standard practice, the Union read the contents of your charge at a Union membership meeting.

On (b) (6), (b) (7)(C) 2017, the Union formalized your settlement in writing, including adding additional credit toward your waiting period. On (b) (6), (b) (7)(C) 2017, the Union filed a separate grievance on your behalf over another pay issue. While you requested that the Union appeal your grievance to the Dispute Resolution Team, that it preserve your right to participate in a national level grievance, and that it refrain from entering into the settlement which did not place you immediately at CC2 Step O, there is insufficient evidence to establish that the Union acted in an arbitrary manner with respect to its handling of your grievance. Likewise, there is no evidence that the Union discriminated against you because you filed a charge with the NLRB. In this regard, the evidence reveals that the grievance settlement was the subject of a verbal agreement prior to the date on which you filed your first charge. Given the above, the evidence is insufficient to support a conclusion that the Union has acted arbitrarily, discriminatorily, or in bad faith with regard to its handling of your position grievance with the Employer. *Vaca v. Sipes*, 386 U.S. 171, 190 (1967).

With respect to your claim that the Union denied you access to and a copy of, your grievance file, the investigation revealed that the Union provided you a copy of this file on (b) (6), (b) (7)(C) 2017. As the file was produced in the middle of the grievance process, the Union invited you to request a complete copy of your file at the conclusion of the grievance matter. There is no evidence that you have made such a follow-up request.

Lastly, the charge also alleges the Union failed to bargain in good faith with the Employer, in violation of Section 8(b)(3) of the Act. Section 8(b)(3) of the Act implicates the bargaining relationship the Union has with the Employer. As such, this allegation, without more, can only be raised against the Union by the Employer and not by an individual employee.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **March 30, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than March 29, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before March 30, 2018**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after March 30, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal

National Association of Letter Carriers, - 4 -
Branch 504, AFL-CIO
(United States Postal Service)
Case 28-CB-210892

March 16, 2018

is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/ Cornele A. Overstreet

Cornele A. Overstreet
Regional Director

Enclosure

cc: United States Postal Service
111 Alvarado Drive SE
Albuquerque, NM 87108-3496

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

National Association of Letter Carriers,
Branch 504, AFL-CIO
124 Monroe Street NE
Albuquerque, NM 87108-1247

Wendy M. LaManque, Attorney at Law
Cohen, Weiss and Simon, LLP
900 Third Avenue, 21st Floor
New York, NY 10022-4869

CAO/KHE/sebj



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March 30, 2018

(b) (6), (b) (7)(C)

Re: Amalgamated Transit Union, Local 1433
AFL - CIO (Alternate Concepts Inc.,
Phoenix)
Case 28-CB-211778

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that Amalgamated Transit Union, Local 1433 AFL – CIO (the Union) has violated the National Labor Relations Act (the Act).

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges the Union violated Section 8(b)(1)(A) of the Act by restraining and coercing employees in the exercise of rights protected by Section 7 of the Act by refusing to process a grievance for arbitrary or discriminatory reasons or in bad faith. You have also asserted that the Union misinformed you of the status of a grievance.

Labor organizations or unions have broad discretion in the handling of grievances and will only be found to have breached their duty of fair representation when their conduct is “arbitrary, discriminatory or in bad faith.” *Vaca v. Sipes*, 386 U.S. 171 (1967). A union’s decision not to arbitrate a grievance because based on its good faith assessment that the grievance does not have merit does not breach the duty of fair representation. *General Motors Corp.*, 297 NLRB 31 (1989). Further, the duty of fair representation “does not require that every possible option be exercised or that a grievant’s case be advocated in a perfect manner.” *Truck Drivers, Local Union No. 355*, 229 NLRB 1319, 1321 (1977). Thus, even negligence in the handling of a grievance will not rise to the level of a breach of the duty of fair representation. *Teamsters Local 692 (Great Western Unifreight)*, 209 NLRB 446 (1974). However, misinforming an employee about the status of a grievance can breach the duty of fair representation. *American Postal Workers Union*, 328 NLRB 281, 282 (1999).

The investigation revealed that the Union filed two grievances about your discharge and one grievance about a safety condition that you raised before your discharge. The Union arbitrated the grievances about your discharge, and the arbitrator denied the grievances. You felt that you were prejudiced by the grievances about your discharge not being consolidated with the grievance about the safety condition for arbitration. Following the arbitrator's denial of the grievances about your discharge, you asked the Union for an update on your grievances. The Union informed you that the Union had exhausted all available means to challenge your discharge and that the grievance about the safety condition remained pending but pertained to general conditions and not any issue specifically pertaining to you. The Union further informed you that it would not take any action to set aside the arbitrator's decision concerning the grievances about your discharge, and that, since you no longer belonged to the bargaining unit, the resolution of the grievance about the safety condition would not impact you. The Union decided not to take the grievance about the safety condition to arbitration because it determined the grievance did not have merit. The Union did not inform you of its decision not to take the grievance about the safety condition to arbitration.

The Union arbitrated the grievances about your discharge, and the evidence does not establish that its decision not to further pursue the grievance about the safety condition was arbitrary, discriminatory, or in bad faith. Further, the evidence does not establish that the Union misinformed you of the status of the grievance about the safety condition. Although, at one point, the Union told you the grievance remained pending, and the Union at some point decided not to further pursue the grievance, the evidence does not establish that the Union had already decided not to further pursue the grievance when it told you that the grievance was still pending. Further, since the Union had communicated to you that the grievance about the safety condition would not impact you, the evidence does not establish that, by not informing you when it made the decision not to arbitrate that grievance, the Union willfully misinformed you about the status of the grievance or willfully kept you uninformed about it, in breach of its duty of fair representation. Accordingly, the evidence does not establish that the Union breached its duty of fair representation, as alleged. I am, therefore, refusing to issue a complaint in this matter.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

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March 30, 2018

Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001. Unless filed electronically, a copy of the appeal should also be sent to me.

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Appeal Due Date: The appeal is due on **April 13, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than April 12, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

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Very truly yours,

/s/ Cornele A. Overstreet

Cornele A. Overstreet
Regional Director

Enclosure

Amalgamated Transit Union, Local 1433 - 4 -
AFL - CIO (Alternate Concepts Inc.,
Phoenix)
Case 28-CB-211778

March 30, 2018

cc: Amalgamated Transit Union,
Local 1433 AFL - CIO
11024 North 28th Drive, Suite 185
Phoenix, AZ 85029-4384

Gerald Barrett, Attorney at Law
Ward Keenan & Barrett, P.C.
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Phoenix, AZ 85016-4723

Alternate Concepts Inc., Phoenix
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Phoenix, AZ 85034-3100

Nathan R. Niemuth, Attorney at Law
Ryley, Carlock and Applewhite
1 North Central Avenue, Suite 1200
Phoenix, AZ 85004-4417

CAO/SJP/cdz



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March 30, 2018

(b) (6), (b) (7)(C)

Re: Amalgamated Transit Union, Local 1433
AFL - CIO (Alternate Concepts Inc.,
Phoenix)
Case 28-CB-211778

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that Amalgamated Transit Union, Local 1433 AFL – CIO (the Union) has violated the National Labor Relations Act (the Act).

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges the Union violated Section 8(b)(1)(A) of the Act by restraining and coercing employees in the exercise of rights protected by Section 7 of the Act by refusing to process a grievance for arbitrary or discriminatory reasons or in bad faith. You have also asserted that the Union misinformed you of the status of a grievance.

Labor organizations or unions have broad discretion in the handling of grievances and will only be found to have breached their duty of fair representation when their conduct is “arbitrary, discriminatory or in bad faith.” *Vaca v. Sipes*, 386 U.S. 171 (1967). A union’s decision not to arbitrate a grievance because based on its good faith assessment that the grievance does not have merit does not breach the duty of fair representation. *General Motors Corp.*, 297 NLRB 31 (1989). Further, the duty of fair representation “does not require that every possible option be exercised or that a grievant’s case be advocated in a perfect manner.” *Truck Drivers, Local Union No. 355*, 229 NLRB 1319, 1321 (1977). Thus, even negligence in the handling of a grievance will not rise to the level of a breach of the duty of fair representation. *Teamsters Local 692 (Great Western Unifreight)*, 209 NLRB 446 (1974). However, misinforming an employee about the status of a grievance can breach the duty of fair representation. *American Postal Workers Union*, 328 NLRB 281, 282 (1999).

The investigation revealed that the Union filed two grievances about your discharge and one grievance about a safety condition that you raised before your discharge. The Union arbitrated the grievances about your discharge, and the arbitrator denied the grievances. You felt that you were prejudiced by the grievances about your discharge not being consolidated with the grievance about the safety condition for arbitration. Following the arbitrator's denial of the grievances about your discharge, you asked the Union for an update on your grievances. The Union informed you that the Union had exhausted all available means to challenge your discharge and that the grievance about the safety condition remained pending but pertained to general conditions and not any issue specifically pertaining to you. The Union further informed you that it would not take any action to set aside the arbitrator's decision concerning the grievances about your discharge, and that, since you no longer belonged to the bargaining unit, the resolution of the grievance about the safety condition would not impact you. The Union decided not to take the grievance about the safety condition to arbitration because it determined the grievance did not have merit. The Union did not inform you of its decision not to take the grievance about the safety condition to arbitration.

The Union arbitrated the grievances about your discharge, and the evidence does not establish that its decision not to further pursue the grievance about the safety condition was arbitrary, discriminatory, or in bad faith. Further, the evidence does not establish that the Union misinformed you of the status of the grievance about the safety condition. Although, at one point, the Union told you the grievance remained pending, and the Union at some point decided not to further pursue the grievance, the evidence does not establish that the Union had already decided not to further pursue the grievance when it told you that the grievance was still pending. Further, since the Union had communicated to you that the grievance about the safety condition would not impact you, the evidence does not establish that, by not informing you when it made the decision not to arbitrate that grievance, the Union willfully misinformed you about the status of the grievance or willfully kept you uninformed about it, in breach of its duty of fair representation. Accordingly, the evidence does not establish that the Union breached its duty of fair representation, as alleged. I am, therefore, refusing to issue a complaint in this matter.

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March 30, 2018

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Very truly yours,

/s/ Cornele A. Overstreet

Cornele A. Overstreet
Regional Director

Enclosure

Amalgamated Transit Union, Local 1433 - 4 -
AFL - CIO (Alternate Concepts Inc.,
Phoenix)
Case 28-CB-211778

March 30, 2018

cc: Amalgamated Transit Union,
Local 1433 AFL - CIO
11024 North 28th Drive, Suite 185
Phoenix, AZ 85029-4384

Gerald Barrett, Attorney at Law
Ward Keenan & Barrett, P.C.
2141 East Camelback Road., Suite 100
Phoenix, AZ 85016-4723

Alternate Concepts Inc., Phoenix
605 South 48th Street
Phoenix, AZ 85034-3100

Nathan R. Niemuth, Attorney at Law
Ryley, Carlock and Applewhite
1 North Central Avenue, Suite 1200
Phoenix, AZ 85004-4417

CAO/SJP/cdz



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Fax: (602)640-2178

March 22, 2018

(b) (6), (b) (7)(C)

Re: Amalgamated Transit Union Local 1637,
AFL-CIO, CLC (MV Transportation, Inc.)
Case 28-CB-211985

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that Amalgamated Transit Union Local 1637, AFL-CIO, CLC has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

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March 22, 2018

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Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before April 5, 2018**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after April 5, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

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Very truly yours,

/s/ Cornele A. Overstreet

Cornele A. Overstreet
Regional Director

Enclosure

cc: See next page.

Amalgamated Transit Union Local 1637,
AFL-CIO, CLC (MV Transportation, Inc.)
Case 28-CB-211985

- 3 -

March 22, 2018

cc: MV Transportation, Inc.
3210 Citizen Avenue
North Las Vegas, NV 89032-4311

Amalgamated Transit Union
Local 1637, AFL-CIO, CLC
2350 South Jones Boulevard, Suite 101-208
Las Vegas, NV 89146-3103

CAO/SLM/sebj



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March 30, 2018

Christian Bassily, COO
Technica, LLC
1 Cool Blow Street Suite 201
Charleston, SC 29403-4274

Re: International Union of Operating Engineers,
Local 351 (Technica, LLC)
Case 28-CB-212042

Dear Mr. Bassily:

We have carefully investigated and considered your charge that International Union of Operating Engineers, Local 351 (the Union) has violated the National Labor Relations Act (the Act).

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below. The charge alleges that the Union violated Section 8(b)(3) of the Act by refusing to honor the non-monetary terms of the Master Collective Bargaining Agreement entered into between the Union and Technica, LLC (the Employer) on December 23, 2015, forcing the Employer to bargain again over the promotion of unit employees, and threatening to file unfair labor practice charges against the Employer unless the Employer provided the newly added maintenance unit employees higher wages. The evidence obtained during the investigation of your charges does not establish a violation of the Act.

The investigation revealed that the parties have bargained for a collective bargaining agreement intermittently since July 2016. The evidence established that in October 2017, the Union was made aware that the Employer had promoted bargaining unit employees and changed their Labor Categories (LCAT) without first bargaining with the Union. The evidence further established that at that time, there was no binding agreement regarding a "management rights clause" from the Master Collective Bargaining Agreement to allow the Employer to take such actions. As such, the Union was not prevented from requesting to change and/or bargain over the promotions that were made by the Employer.

As to the Union threatening to file unfair labor practice charges against the Employer, the investigation disclosed that on December 15, 2017, a Union representative raised issue with the Employer implementing changes to terms and conditions of employment regarding promotions.

March 30, 2018

Although the evidence establishes that a statement was made by the Union representative to file an unfair labor practice charge, the investigation did not establish that the statement was made as a threat to coerce the Employer to agree to pay maintenance employees higher wages. Rather, the investigation revealed that the statement was made to express an intention by the Union to seek redress with the NLRB to address the alleged unilateral changes it believed had been made by the Employer to promotions. Such conduct by the Union does not constitute bad faith bargaining and thus does not establish that the Union violated Section 8(b)(3) of the Act.

I am, therefore, refusing to issue a complaint in this matter.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

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Appeal Due Date: The appeal is due on **April 13, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than April 12, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before April 13, 2018**. The request may be filed

March 30, 2018

electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after April 13, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/ Cornele A. Overstreet

Cornele A. Overstreet
Regional Director

Enclosure

cc: Matthew J. Kelley, Attorney at Law
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
111 Monument Circle, Suite 4600
Indianapolis, IN 46204

Juan De La Torre
International Union of Operating
Engineers Local 351
111 West Coolidge Street
Borger, TX 79007

CAO/RM/sebj



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 28
2600 North Central Avenue, Suite 1400
Phoenix, AZ 85004

Agency Website: www.nlr.gov
Telephone: (602)640-2160
Fax: (602)640-2178

March 7, 2018

(b) (6), (b) (7)(C)

Re: ITPEU (United Freedom Associates)
Case 28-CB-212096

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that ITPEU has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel** at the **National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **March 21, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than March 20, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before March 21, 2018**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after March 21, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/ Cornele A. Overstreet

Cornele A. Overstreet
Regional Director

Enclosure

cc: See next page.

cc: Sidney H. Kalban, Union Counsel
Industrial Technical & Professional Employees
Union, AFL-CIO, OPEIU Local 4873
80 8th Avenue Floor 8
New York, NY 10011-7175

Joe Serrano, Representative
Industrial Technical and Professional Employees
(ITPEU) OPEIU Local 4873 AFL-CIO
6070 Gateway Boulevard Suite 500U
El Paso, TX 79905-2031

Michael D. McQueen, Attorney at Law
Kemp Smith Law
221 North Kansas Street Suite 1700
El Paso, TX 79901-1401

United Freedom Associates, Inc.
6425 Boeing Drive, Suite D-6
El Paso, TX 79925-1166

CAO/KEL/sebj



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 28
2600 North Central Avenue, Suite 1400
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Agency Website: www.nlr.gov
Telephone: (602)640-2160
Fax: (602)640-2178

March 21, 2018

(b) (6), (b) (7)(C)

Re: National Association of Letter Carriers,
Branch 989 (United States Postal Service)
Case 28-CB-212337

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that the National Association of Letter Carriers, Branch 989 (the Union) has violated the National Labor Relations Act (the Act).

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at www.nlr.gov. However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax or email. To file an appeal electronically, go to the Agency's website at www.nlr.gov, click on **E-File Documents**, enter the **NLRB Case Number**, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

Appeal Due Date: The appeal is due on **April 4, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a

delivery service no later than April 2, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before April 4, 2018.** The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after April 4, 2018, **even if it is postmarked or given to the delivery service before the due date.** Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/ Cornele A. Overstreet

Cornele A. Overstreet
Regional Director

Enclosure

cc: See next page.

National Association of Letter Carriers,
Branch 989 (United States Postal Service)
Case 28-CB-212337

- 3 -

March 21, 2018

cc: National Association of Letter
Carriers, Branch 989
PO Box 517
Santa Fe, NM 87504-0517

Roderick Eves, Deputy Managing Counsel
Julie Hellerud, NLRB Specialist
United States Postal Service
(Law Department - NLRB Unit)
1720 Market Street, Room. 2400
Saint Louis, MO 63155-9948

United States Postal Service
2071 South Pacheco Street
Santa Fe, NM 87505-9998

CAO/DTG/sebj



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 28
2600 North Central Avenue, Suite 1400
Phoenix, AZ 85004

Agency Website: www.nlr.gov
Telephone: (602)640-2160
Fax: (602)640-2178

March 14, 2018

(b) (6), (b) (7)(C)

Re: General Teamsters (Excluding Mailers),
State of Arizona, Local Union 104,
International Brotherhood of Teamsters
(United Parcel Service, Inc.)
Case 28-CB-212661

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that General Teamsters (Excluding Mailers) State of Arizona, Local No. 104, International Brotherhood of Teamsters (the Union) has violated the National Labor Relations Act (the Act).

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **March 28, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than March 27, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before March 28, 2018**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after March 28, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

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Very truly yours,

/s/ Cornele A. Overstreet

Cornele A. Overstreet
Regional Director

Enclosure

cc: See next page.

General Teamsters (Excluding Mailers),
State of Arizona, Local Union 104,
International Brotherhood of Teamsters
(United Parcel Service, Inc.)
Case 28-CB-212661

- 3 -

March 14, 2018

cc: General Teamsters (Excluding Mailers)
State of Arizona, Local No. 104,
International Brotherhood of Teamsters
1450 South 27th Avenue
Phoenix, AZ 85009

United Parcel Service, Inc.
3150 North 31st Avenue
Phoenix, AZ 85017-5473

CAO/LJD/lg



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 28
2600 North Central Avenue, Suite 1400
Phoenix, AZ 85004

Agency Website: www.nlr.gov
Telephone: (602)640-2160
Fax: (602)640-2178

March 30, 2018

(b) (6), (b) (7)(C)

Re: National Association of Letter Carriers,
Branch Local 576
(United States Postal Service)
Case 28-CB-213011

Dear (b) (6), (b) (7)(C):

We have carefully investigated and considered your charge that National Association of Letter Carriers, Branch 576 (the Union) has violated the National Labor Relations Act (the Act).

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that the Union breached its duty of fair representation by improperly processing grievances on your behalf concerning and including, but not limited to, your letter of warning, suspension, and removal from the United States Postal Service (the Employer), in violation of Section 8(b)(1)(A) of the Act. The investigation revealed that you were involved in an accident while operating a vehicle for the Employer. Subsequent to the Employer's investigation, the Employer issued you a notice of removal and you were removed from service with the Employer. The Union filed and processed a grievance through Step B of the grievance and arbitration procedure under the parties' collective-bargaining agreement. The grievance was heard by a two-person Dispute Resolution Team, consisting of one Employer representative and one Union representative (who is appointed by the national Union). The Dispute Resolution Team decided that the Employer had just cause to remove you from service, and the Union informed you of that decision.

Additionally, your charge alleges that the Union breached its duty of fair representation by failing to process a grievance over the Employer failing to pay monies that you claim you were owed. The investigation disclosed that the Employer placed you in "off-pay" status on (b) (6), (b) (7)(C) 2017, the day after you were involved in the accident while operating the Employer's vehicle. You remained in "off-pay" status through the issuance of your notice of removal. The

Union filed and processed a grievance through Step B, and the grievance was heard before the Dispute Resolution Team. The Dispute Resolution Team decided that the Employer was justified in placing you in “off-pay” status for one day, but that the Employer should have permitted you to work thereafter (or paid you for the time you were in “off-pay” status). Accordingly, the Dispute Resolution Team ordered the Employer to pay you back pay for 40 hours per week (excluding overtime pay), effective (b) (6), (b) (7)(C) 2017. When the Employer failed to comply with the Dispute Resolution Team’s order, the Union filed a grievance over the Employer’s noncompliance. This noncompliance grievance resulted in a settlement between the parties. The Union informed you of the settlement, and you signed the paperwork necessary for you to receive your backpay. The investigation failed to disclose that you did not receive the backpay owed to your under the grievance settlement. The evidence has failed to show that the Union’s conduct in the processing of your grievances was arbitrary, discriminatory, or in bad faith. *Vaca v. Sipes*, 386 U.S. 171, 190 (1967). I am, therefore, refusing to issue a complaint in this matter.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency’s e-filing system, go to our website at www.nlr.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

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Appeal Due Date: The appeal is due on **April 13, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency’s website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than April 12, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

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Very truly yours,

/s/ Cornele A. Overstreet

Cornele A. Overstreet
Regional Director

Enclosure

cc: See next page.

cc: Joshua J. Ellison, Attorney at Law
Peter D. DeChiara, Attorney at Law
Cohen, Weiss and Simon LLP
900 Third Avenue, 21st Floor
New York, NY 10022-4869

National Association of Letter Carriers,
Branch 576
3720 West Greenway Road
Phoenix, AZ 85053-3703

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

CAO/WM3/cdz