



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 5
BANK OF AMERICA CENTER, TOWER II
100 S. CHARLES STREET, SUITE 600
BALTIMORE, MD 21201

Agency Website: www.nlr.gov
Telephone: (410) 962-2822
Fax: (410) 962-2198

November 2, 2018

Sander M. Davidson, Esq.
Law Office of Sander M. Davidson
1700 Rockville Pike, Suite 400
Rockville, MD 20852

Re: Communications Workers of America
(CWA), Local 2336, District 2-13
(Verizon)
Case 05-CB-199886

Dear Mr. Davidson:

We have carefully investigated and considered your charge that Communications Workers of America (CWA), Local 2336, District 2-13 has violated the National Labor Relations Act.

Decision to Dismiss: On September 29, 2017, the Regional Director informed the Charging Party that he would dismiss the remaining portion of the charge, alleging the Union violated Section 8(b)(1)(A) of the Act by refusing to represent the Charging Party before the Employer for arbitrary or discriminatory reasons or in bad faith, unless he decided the Employer had committed additional violations of the Act that would make dismissal of the charge inappropriate. Since that has not happened, I am dismissing the remaining portion of the charge.

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, S.E., 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 **November 16, 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 November 15, 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 November 16, 2018**. The request may be filed electronically through the *E-File Documents* link on our website www.nlrb.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 November 16, 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/ Nancy Wilson

Nancy Wilson
Acting Regional Director

Enclosure: Appeal Form

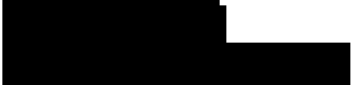
cc: See Page Three

cc: Mr. Terrence Richardson, President
Communications Workers of America
(CWA), Local 2336, District 2-13
151 Riggs Road, N.E.
Washington, DC 20011

Danielle K. Newsome, Esq.
Willig, Williams & Davidson
1845 Walnut Street, 24th Floor
Philadelphia, PA 19103

Ms. Charlene M. Bobel
Manager Verizon
13101 Columbia Pike, FDC 1
Silver Spring, MD 20904

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

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November 30, 2018

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

Peter D. DeChiara, Esq.
Kate M. Swearngen, Esq.
Cohen, Weiss and Simon LLP
900 Third Avenue, 21st Floor
New York, NY 10022

Re: National Association of Letter Carriers, Branch 496
(United States Postal Service)
Case 05-CB-223194

Dear (b) (6), (b) (7)(C) Mr. DeChiara and Ms. Swearngen:

We have carefully investigated and considered your charge that National Association of Letter Carriers, Branch 496 has violated the National Labor Relations Act and the Postal Reorganization Act.

Approval of Request to Withdraw Portion of the Charge: On October 29, 2018, the Charging Party filed a first amended charge alleging that the National Association of Letter Carriers, Branch 496 ("Branch 496") violated Section 8(b)(1)(A) of the Act, by: (1) refusing to process the Charging Party's grievance regarding the United States Postal Service's (the Employer's) refusal to provide the Charging Party with certain 3971 forms, for arbitrary or discriminatory reasons, or in bad faith; and (2) refusing to inform the Charging Party regarding the status of a grievance over the Employer's refusal to provide the Charging Party with certain 3971 forms, for arbitrary or discriminatory reasons or in bad faith. This is to advise that I have approved the Charging Party's request to withdraw a portion of that charge. Specifically withdrawn is the first allegation, which alleges that Branch 496 violated Section 8(b)(1)(A) of the Act by refusing to process the Charging Party's grievance regarding the Employer's refusal to provide the Charging Party with certain 3971 forms, for arbitrary or discriminatory reasons, or in bad faith.

Conditional Decision to Dismiss in Part: Based on the Region's investigation of the charge, it appears that a portion of the Charging Party's first amended charge may have merit. However, I have conditionally decided to dismiss this arguably meritorious allegation six months from this date. The Charging Party's first amended charge alleged, in part, that Branch 496 violated Section 8(b)(1)(A) of the Act by refusing to inform the Charging Party regarding the status of a grievance over the Employer's refusal to provide the Charging Party with certain 3971, forms for arbitrary or discriminatory reasons or in bad faith.

I have conditionally decided to dismiss this allegation, the second allegation in the charge because there have not been any meritorious charges against Branch 496 within the past several

years and because any refusal to inform the Charging Party regarding the status of the grievance had only a minor group impact. Moreover, there is no ongoing unlawful effect on employees' terms and conditions of employment. Accordingly, I will hold the aforementioned allegation in abeyance for six months from the date of this letter. If a meritorious charge involving other unfair labor practices is filed against Branch 496 during that period, I will reconsider whether further proceedings are warranted on this portion of the charge.

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Appeal Due Date: The appeal is due on **December 14, 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 December 13, 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 December 14, 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 December 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.

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Very truly yours,

/s/ Nancy Wilson

Nancy Wilson
Acting Regional Director

Enclosure

cc: Ms. Thelma Hunt
President
National Association of Letter Carriers,
Branch 496
2416 Chamberlayne Avenue
Richmond, VA 23222-4206

Ms. Lekeithia James
Acting Manager
United States Postal Service
1801 Brook Road
Richmond, VA 23232

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



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November 30, 2018

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

Re: American Postal Workers Union (APWU) Local 6803
(United States Postal Service)
Case 05-CB-224187

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

We have carefully investigated and considered your charge that APWU, The Northern Virginia Area Local 6803 has violated the National Labor Relations Act and the Postal Reorganization Act.

Decision to Dismiss: Based on our investigation, I have concluded that further proceedings are not warranted, and I am dismissing your charge for the following reasons:

Your charge alleges that your union, American Postal Workers Union (APWU), Local 6803 (the Union), violated Section 8(b)(1)(A) of the Act when it refused to process your grievance about a letter of warning for arbitrary or discriminatory reasons or in bad faith; failed to inform you about the status of your grievance request, and; made a discriminatory statement about your Union membership status.

The investigation revealed that on (b) (6), (b) (7)(C) 2018, your employer, the United States Postal Service (the Employer), issued you a letter of warning for claiming (b) (6), (b) (7)(C) days after the Employer had denied your time off requests. The investigation further revealed that on (b) (6), (b) (7)(C) 2018, you met with a Union (b) (6), (b) (7)(C) to discuss filing a grievance over the letter of warning. However, and notwithstanding your claim that the (b) (6), (b) (7)(C) immediately refused to file a grievance on your behalf specifically because of your Union membership status, the investigation found that the (b) (6), (b) (7)(C) actually asked you to provide a copy of the letter of warning and that you failed to do so at that time. The investigation also found that you instead mailed the letter of warning to the (b) (6), (b) (7)(C) at the same facility where you both work. The letter was delayed in the mail and the Union did not receive it until June 28, 2018, which was beyond the 14-day time limit for filing a grievance over the letter of warning.

Furthermore, the investigation established that, contrary to your allegation that the Union received your letter but returned its contents unopened, the Union actually opened the letter, reviewed its contents, determined that a grievance would be untimely, and sent you a request through your supervisor to meet with the (b) (6), (b) (7)(C), which you refused to do. Finally, the investigation uncovered that the Union, through the same (b) (6), (b) (7)(C), assisted you with other matters before and after the filing of this charge, which is inconsistent with your allegations that the Union discriminated against you because of your non-membership status.

It is well established that a union has a duty of fair representation to all members of a designated bargaining unit. *Humphrey v. Moore*, 375 U.S. 335 (1964). The Supreme Court defined this duty as “a statutory obligation to serve the interests of all members without hostility or discrimination toward any, to exercise its discretion with complete good faith and honesty, and to avoid arbitrary conduct.” *Vaca v. Sipes*, 386 U.S. 171, 177 (1967). Unions are allowed a “wide range of reasonableness in serving unit employees, and any subsequent examination of a union’s

performance must be ‘highly deferential.’” *Letter Carriers Branch 529*, 319 NLRB 879, 880 (1995), quoting in part *Air Line Pilots Assn. v. O’Neill*, 399 U.S. 65, 78 (1991). Additionally, a grievant’s failure to cooperate with a Union’s investigation can serve as the basis for a Union’s decision to not pursue a grievance. *H&M International Transportation, Inc.*, 363 NLRB No. 13 slip op. at 2.

In the instant case, the evidence demonstrated the Union’s willingness to assist you regardless of your membership status. With regard to your specific allegations, the Union did not refuse to file a grievance on your behalf because of your lack of membership status, but rather requested you provide the relevant letter of warning to the (b) (6), (b) (7)(C), which you decided to mail rather than hand-deliver it to the Union’s (b) (6), (b) (7)(C) to ensure that it would be received in a timely fashion. Moreover, when the Union attempted to discuss the letter of warning and your request for a grievance with you, you refused. Therefore, the evidence fails to establish the Union’s conduct was arbitrary, discriminatory, or in bad faith, when it decided to not pursue your grievance. The evidence also fails to show that the Union failed or refused to inform you of your grievance’s status or that it made any discriminatory statements or treated you differently because of your membership status.

Based on the foregoing, further proceedings are not warranted, and I am refusing to issue 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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November 29, 2018

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 December 14, 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 December 14, 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/ Nancy Wilson

Nancy Wilson
Acting Regional Director

Enclosure

cc: (b) (6), (b) (7)(C)
American Postal Workers Union,
Local 6803
7310 McWhorter Pl., Ste C
Annandale, VA 22003-5600

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

Mr. Rick Powers
President
American Postal Workers Union,
Northern Virginia Area Local 6803
7310-C McWhorter Place
Annandale, VA 22003

(b) (6), (b) (7)(C)
United States Postal Service
8409 Lee Hwy
Eskridge Bldg. Fls Church Ofc
Merrifield, VA 22081-0002



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November 21, 2018

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

Re: Service Employees International Union,
Local 32BJ (GOV Services, Inc.)
Case 05-CB-225107

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

We have carefully investigated and considered your charge that Service Employees International Union, Local 32BJ 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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Appeal Due Date: The appeal is due on **December 5, 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 December 4, 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 December 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 December 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/ Sean R. Marshall

Sean R. Marshall
Acting Regional Director

Enclosure: Appeal Form

cc: Mr. Thuy Tran, President
GOV Services, Inc.
6926 Regent Lane
Falls Church, VA 22042-2615

Katy Dunn, Esq.
Service Employees International
Union, Local 32BJ
25 West 18th Street
New York, NY 10011-4676

Mr. Gabriel Calderon
Service Employees International
Union, Local 32BJ
1025 Vermont Avenue, N.W., Floor 7
Washington, DC 20005-3577



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November 29, 2018

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

Re: United Food and Commercial Workers,
Local 152 (Kraft Foods)
Case 05-CB-225262

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

We have carefully investigated and considered your charge that United Food and Commercial Workers, Local 152 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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Very truly yours,

/s/ Nancy Wilson

Nancy Wilson
Acting Regional Director

Enclosure: Appeal form

cc: Mr. Brian String, President
United Food and Commercial Workers
International Union, Local 152
701 Route 50
Mays Landing, NJ 08330-2150

Mark E. Belland, Esq.
O'Brien, Belland & Bushinsky, LLC
1526 Berlin Road
Cherry Hill, NJ 08003

Mr. Craig Denick, HR Manager
Kraft Foods
1250 West North Street
Dover, DE 19904-7756

Andrew Oppenheimer, Esq.
Kraft Heinz Foods Company
200 E. Randolph Street, Suite 7600
Chicago, IL 60601-7012



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November 2, 2018

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

Re: United Food and Commercial Workers, Local 400
(Kaiser Permanente)
Case 05-CB-226659

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

We have carefully considered your charge that United Food and Commercial Workers, Local 400 has violated the National Labor Relations Act.

Decision to Dismiss: In view of your lack of cooperation in investigating this case, I have determined that further proceedings are not warranted at this time and I am dismissing your charge.

The Region's letter dated August 31, 2018, acknowledging receipt of your charge informed you of your obligations as a charging party to cooperate in the investigation and advised you that a failure to cooperate could result in the dismissal of your charge.

On September 19, 2018, the investigating Board agent assigned to your case called and attempted to speak with you regarding your charge and to arrange a time when you would be available to present your evidence. On September 19, 2018, the investigating agent left you a voice message requesting a return call. You did not return that call.

On September 24, 2018, the investigating agent called you again to discuss your case and to schedule an appointment to receive your evidence. During that call, and before agreeing on an appointment date and time, you appeared to disconnect the call. You did not call the investigating agent back after terminating the call on September 24, 2018. Also on September 24, 2018, after you seemed to disconnect the call with the investigating agent, the investigating agent sent you an email requesting that you contact her by the close of business on September 26, 2018, to discuss the details of your case and to set an affidavit appointment. You did not reply to that e-mail.

On October 1, 2018, the investigating agent sent you an e-mail with an attached letter setting an appointment for October 9, 2018, at 10:30 am in the Washington Resident Office. The investigating agent's October 1, 2018 letter, advised you that if you failed to appear or failed to present your evidence as scheduled, and you did not provide advance notice to reschedule that appointment, the Region would assume that you were not interested in proceeding. The October 1, 2018 letter further advised you that failure to keep the appointment might result in dismissal of the charge for failure to cooperate. You e-mailed the investigating agent at 8:16 am on October 9, 2018, notifying the agent that you were not going to appear for the scheduled appointment.

On October 9, 2018, the investigating agent replied to your e-mail requesting your availability to set another appointment. You did not reply to that-email. On October 11, 2018, the investigating agent again e-mailed you requesting a response with your availability by October 15, 2018. You did not reply to that e-mail. On October 15, 2018, the investigating agent called you to follow-up about your availability for an appointment. During that call, you indicated that you may be available on October 31, 2018, but would later confirm your availability for that date. You never communicated with the investigating agent to clarify your availability. On October 18, 2018, the investigating agent e-mailed you to request confirmation of your availability on October 31, 2018. You did not reply to this email.

On October 25, 2018, the investigating agent sent you an e-mail with an attached letter setting an appointment on October 31, 2018, at 10:30 am in the Washington Resident Office. The investigating agent's letter of October 25, 2018 advised you, consistent with the Region's letters dated August 31, 2018, and October 1, 2018, that failure to keep the appointment could result in dismissal of the charge for failure to cooperate. That letter also set an October 31, 2018 deadline for the submission of evidence in support of your charge.

On October 31, 2018, you did not appear for your scheduled appointment. As a result, further proceedings in this matter are not warranted, and I am refusing to issue complaint.

If you wish to refile this charge later when you can cooperate in the investigation, you may do so. However, your attention is directed to Section 10(b) of the Act which provides that a charge must be filed with the NLRB and served on the charged party within six months of the conduct alleged to be unlawful.

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 **November 16, 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 November 15, 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 November 16, 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 November 16, 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/ Nancy Wilson

Nancy Wilson
Acting Regional Director

Enclosure

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