

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPLAINT OF MICHAEL HAMMOND

Docket No. C2008-1

ANSWER OF THE UNITED STATES POSTAL SERVICE
(January 25, 2008)

Pursuant to Order No. 52 (January 3, 2008) and Commission Rule 82 (39 C.F.R. § 3001.82), the United States Postal Service hereby submits its Answer to the Complaint of Michael Hammond.¹

Sections I (Complainant Name and Address) and II (Jurisdiction) of the Complaint are precatory or legal argument, and do not warrant a specific response. Yet the address specified for Complainant, apparently in his individual capacity, is the locus of the delivery receptacle that lies at the heart of the allegations herein as well as the pre-existing federal court proceeding: *Michael Hammond v. U.S. Postal Service*, Civ. No. 07-268-SM, U.S.D.C., D.N.H. Moreover, in light of Complainant's refusal to take delivery of his mail via general delivery after rural carrier delivery ceased, Complainant's

¹ By Settlement Report dated January 18, 2007, counsel for the Postal Service reported that Complainant's counsel had not responded to any settlement overtures extended by the United States Attorney in the District of New Hampshire, but for summary rejection of an initial inquiry. Complainant's counsel has now responded via letter to the most recent offer based, in part, upon the January 4, 2008, resumption of delivery to Complainant's delivery receptacle. The resumption of delivery accordingly extirpates this individualized delivery complaint in the customer's favor. A reply to Complainant's counsel's response is now being prepared. As such, counsel for the Postal Service no longer agrees with his January 18 settlement report that "settlement is unlikely." The parties are communicating with progress being made, so substantial hope for settlement is now warranted. The Postal Service would strongly prefer not to consume the Commission's resources with Complainant's service issue, the location of a single delivery receptacle.

mail directed to his residential address was handled in accordance with postal regulations as “undeliverable as addressed” (UAA).

Sections III (Facts of the Case) and IV (Statement of the Grounds for Complaint) consist of enumerated paragraphs to which the Postal Service answers as follows:

1. Respondent admits that Complainant is a resident of Dunbarton, New Hampshire and is served by the Goffstown Post Office, as alleged in the paragraph numbered 1 in the Complaint.

2. Respondent admits the allegations set forth in paragraph 2 of the Complaint.

3. Respondent lacks sufficient knowledge or information to form a belief as to the length of time Complainant has resided at his current address, and leaves Complainant to his proof on that matter. Respondent admits that prior to December 2006 Complainant received delivery of mail to a delivery receptacle in its current location.

4. Respondent denies the allegations set forth in paragraph 4 of the Complaint.

5. Respondent denies the allegations set forth in paragraph 5 of the Complaint.

6. Respondent lacks sufficient knowledge or information to form a belief as to the allegations set forth in paragraph 6 of the Complaint. As such, it is denied.

7. Respondent admits that on or about December 18, 2006, the Goffstown, NH Post Office suspended delivery of mail to the delivery receptacle located on Mr. Hammond’s property. Respondent denies the remainder of the allegations set forth in

paragraph 7 of the Complaint. Respondent affirmatively alleges that it has, at all times, handled mail addressed to Complainant's residence in accordance with postal regulations.

8. Respondent admits it asked that Complainant's rural delivery receptacle be relocated so that it could be served safely from the public right of way both before and after delivery was terminated. Respondent otherwise denies the allegations in paragraph 8 for the lack of knowledge or information sufficient to form a belief as to their truth. Otherwise, allegations in paragraph 8 are denied.

9. Respondent denies the allegations set forth in paragraph 9 of the Complaint.

10. Respondent denies the allegations set forth in paragraph 10 of the Complaint, in part for lack of knowledge or information as to what letter the Complaint references.

11. Respondent denies the allegations set forth in paragraph 11 of the Complaint.

12. Respondent admits the allegations set forth in paragraph 12 of the Complaint.

13. Respondent admits the allegations set forth in paragraph 13 of the Complaint to the extent supported by the correspondence cited therein, which is itself the best evidence of its contents.

14. Respondent lacks sufficient information to develop a belief as to the truth of allegations in paragraph 14; it is accordingly denied. The Postal Service admits that any such correspondence would itself be the best evidence as to its content.

15. Respondent admits the fact of a letter response on December 9, 2006, and that such letter is itself the best evidence of its contents. Respondent otherwise denies the allegations set forth in paragraph 15 of the Complaint.

16. Respondent denies the allegations in paragraph 16 of the Complaint for a lack of knowledge or information sufficient to form a belief as to their truth.

17. Respondent denies the allegations set forth in paragraph 17 of the Complaint. Answering further, the Post Office initially informed Complainant that it would hold, and did hold, mail addressed to the Complainant for approximately 30 days, during which the Complainant never retrieved or asked about the mail. Thereafter, mail was handled as Undeliverable As Addressed (UAA), some of which would be returned to the sender as "unclaimed." Following the initial thirty day period, mail was handled as UAA on a weekly basis.

18. Respondent denies the allegations set forth in paragraph 18 of the Complaint.

19. Respondent denies the allegations set forth in paragraph 19 of the Complaint.

20. The allegations set forth in paragraph 20 of the Complaint argue for, or state, conclusions of law to which no response is required. To the extent a response may be deemed necessary, Respondent denies the allegations set forth in paragraph 20 of the Complaint.

21. Respondent denies the allegations set forth in paragraph 21 of the Complaint.

22. The allegations set forth in paragraph 22 of the Complaint argue for, or state, conclusions of law to which no response is required. To the extent a response may be deemed necessary, Respondent denies the allegations set forth in paragraph 22 of the Complaint.

23. Respondent admits the existence of *Postal Operations Manual* § 632.53 (*Nonconforming Mailboxes*), which speaks for itself regarding its content. To the extent a further response to paragraph 23 may be deemed necessary, Respondent denies the allegations set forth.

24. Respondent lacks sufficient knowledge or information to form a belief as to the allegations set forth in paragraph 24 of the Complaint. Respondent admits that it has produced no Form 4506 pursuant to FOIA request by Complainant. Otherwise, allegations in paragraph 24 are denied.

25. Respondent denies the allegations set forth in paragraph 25 for a lack of knowledge or information sufficient to form a belief as to their truth.

26. The allegations set forth in paragraph 26 of the Complaint argue for, or state, conclusions of law to which no response is required. To the extent a response may be deemed necessary, Respondent denies the allegations set forth in paragraph 26 of the Complaint.

27. Respondent denies the allegations set forth in paragraph 27 of the Complaint.

28. Respondent denies the allegations set forth in paragraph 28 of the Complaint.

29. The allegations set forth in paragraph 29 of the Complaint argue for, or state, conclusions of law to which no response is required. To the extent a response may be deemed necessary, Respondent denies the allegations set forth in paragraph 29.

30. The allegations set forth in paragraph 30 of the Complaint argue for, or state, conclusions of law to which no response is required. To the extent a response may be deemed necessary, Respondent denies the allegations set forth in paragraph 30.

31. The allegations set forth in paragraph 31 of the Complaint argue for, or state, conclusions of law to which no response is required. To the extent a response may be deemed necessary, Respondent denies the allegations set forth in paragraph 31.

32. The allegations set forth in paragraph 32 of the Complaint request various legal remedies, to which no response is required. To the extent a response may be deemed necessary, Respondent denies the allegations set forth in paragraph 32.

33. The allegations set forth in paragraph 33 of the Complaint argue for, or state, conclusions of law regarding various legal remedies, to which no response is required. To the extent a response may be deemed necessary, Respondent denies the allegations set forth in paragraph 33 of the Complaint.²

34. The allegations set forth in paragraph 34 of the Complaint argue for, or state, conclusions of law to which no response is required. To the extent a response

² The Postal Service does not necessarily agree that any of the wide ranging claims made by Complainant, whether they sound in tort, contract, unlawful discrimination, or criminal law, are justified or necessarily cognizable by the Commission. The extent to which various remedies may be available to Complainants from the Commission presents some various, novel legal questions. This docket, however, provides little in the way of appropriate context for examining such issues.

may be deemed necessary, Respondent denies the allegations set forth in paragraph 34.

35. The allegations set forth in paragraph 35 of the Complaint argue for, or state, conclusions of law to which no response is required. To the extent a response may be deemed necessary, Respondent denies the allegations set forth in paragraph 35.

36. Respondent denies the allegations set forth in paragraph 36 of the Complaint.

37. Respondent denies the allegations set forth in paragraph 37 of the Complaint.

38. Respondent denies the allegations set forth in paragraph 38 of the Complaint.

39. Respondent lacks sufficient knowledge or information to form a belief as to the allegations set forth in paragraph 39 of the Complaint; as such, they are denied. To the extent a letter written by a postal official exists, its content would speak for itself.

40. Respondent lacks sufficient knowledge or information to form a belief as to the allegations set forth in paragraph 40 of the Complaint; as such, they are denied. To the extent a letter written by a postal official exists, its content would speak for itself.

41. Respondent denies the allegations set forth in paragraph 41 of the Complaint.

42. Respondent lacks sufficient knowledge or information to form a belief as to the allegations set forth in paragraph 42 of the Complaint; as such, they are denied.

43. The allegations set forth in paragraph 43 of the Complaint argue for, or state, conclusions of law to which no response is required. To the extent a response may be deemed necessary, Respondent denies the allegations set forth in paragraph 43.

44. Respondent admits that it is not aware of any previous finding regarding the sub-optimality of Complainant's delivery receptacle. Otherwise, the allegations set forth in paragraph 44 of the Complaint are denied.

45. Respondent lacks sufficient knowledge or information to form a belief as to the allegations set forth in paragraph 45 of the Complaint; as such, they are denied.

46. Paragraph 46 of the Complaint quotes a section of the United States Code. As such, no response is warranted.

47. Paragraph 47 purports to quote a section of the United States Code; Respondent denies the accuracy of the cited quotation.

48. Paragraph 48 of the Complaint purports to quote, without omission, part of the United States Code. Respondent denies the completeness of the quotation, but admits that section 403(c) (39 U.S.C. § 403(C)) is rendered accurately.

49. Paragraph 49 purports to quote sections of the United States Code; Respondent admits that a portion of former section 3621 is rendered accurately, but denies that it accurately states current law.

50. Paragraph 50 attempts to quote section 3661, title 39, United States Code. Respondent admits that the quotation of former section 3661 is correct, but denies that it accurately states current law or that the supplied emphasis was in that former section.

51. Paragraph 51 attempts to quote section 3662, title 39, United States Code. Respondent admits that the quotation of former section 3662 is accurate; Respondent denies that this section accurately states current law.

52. Paragraph 52 consists of legal argument that does not warrant a response.

53. Paragraph 53 consists of legal argument that does not warrant a response. To any extent necessary, allegations in paragraph 53 are denied.

54. Respondent denies the allegations set forth in paragraph 54 of the Complaint. Respondent pleads affirmatively that delivery of mail to the delivery receptacle outside Complainant's residence recommenced on January 4, 2008.

55. Respondent denies the allegations set forth in the first three lines of paragraph Complaint 55. The remainder of paragraph 55 appears to cite various legal sources and authorities, including Public Law 109-435, for reasons difficult to discern; to the extent any response is warranted, Respondent denies any and all allegations therein.

To the extent this Answer fails to address with sufficient specificity any allegation in the Complaint, the Postal Service denies such allegations.

Pursuant to Rule 84(b) (39 C.F.R. §3001.84(b)), the Postal Service hereby states its position. The postmaster's decision to terminate carrier delivery service to Complainant's receptacle was consistent with postal regulations. Such decisions are subject to review, upon appeal, to more senior officials, and such review has now occurred. The underlying dispute involves a single customer and mail delivery to a

single rural delivery receptacle; such matters should not require examination by postal Headquarters nor by the Postal Regulatory Commission.

Pursuant to review of the circumstances, the Postal Service has accordingly resumed rural carrier delivery as sought by Complainant; this was accomplished on January 4, 2008. This should conclude the Postal Regulatory Commission's concern whether postal services are being provided in accordance with the Postal Accountability and Enhancement Act. The pending federal court case³ can reasonably address any remaining issues.

WHEREFORE, the Postal Service provides an Answer in this matter, and urges that the Commission consider whether its consideration of this matter continues to be warranted.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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³ Michael Hammond v. U.S. Postal Service, Civ. No. 07-268-SM, U.S.D.C., D.N.H. While settlement efforts have encompassed that proceeding and this one, saying more about settlement discussions would not aid their furtherance.