



May 8, 2014

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your December 23, 2013 complaint filed with the U.S. Department of Labor alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election of officers conducted by the International Union of Operating Engineers (IUOE), Local 234 on August 24, 2013.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that no violation occurred.

You alleged that the union violated the LMRDA when it ruled that you were ineligible to be a candidate for business manager. Section 401(e) of the LMRDA requires that every member in good standing shall be eligible to be a candidate and to hold office subject to reasonable qualifications uniformly imposed. The Department's regulations provide that unions may reasonably require candidates to have been employed at the trade or to have actively sought employment at the trade for a reasonable period before their nomination. 29 C.F.R. § 452.41(a).

Section XXIV(1)(b) of the IUOE constitution provides that no member shall be eligible to be a candidate for business manager who has not been continuously employed at the trade or actively sought employment at the trade for two years prior to the month of nominations. You believe the union improperly determined that you did not meet either of these criteria at the time of your nomination in June 2013.

The Department's investigation determined that the union considers a member to be employed at the trade if the member works for the union or works for an employer where the member is represented by the union. The union considers a member to be actively seeking employment at the trade if he signs the union's out of work list. The Department accepts the union's interpretation of its constitution because it is not "clearly unreasonable." 29 C.F.R. § 452.3.

The investigation determined that you did not meet either of these requirements. At the time of your nomination, you had been employed by the City of Des Moines as a carpenter for more than two years. Although the union is a member of the Central Iowa

Public Employees Council (CIPEC), which has a collective bargaining agreement with the City, the union asserts that it does not have jurisdiction over carpenters covered by this agreement. [REDACTED] Secretary-Treasurer of CIPEC and Business Manager of Laborers Local 353 confirmed that carpenters who work for the City are represented by Laborers Local 353, and are not represented by IUOE, Local 234. [REDACTED] also stated that the union does not pay per capita taxes to CIPEC on your behalf. Based on this information, the Department has determined that your employment with the City does not qualify as employment at the trade.

In addition, the investigation revealed that you did not place yourself on the union's out of work list. You had prior notice that, if you are not employed at the trade, you must sign the out of work list to maintain your eligibility to hold office. Specifically, in June 2011, the union removed you from the office of auditor because you were no longer employed at the trade, and at that time you did not sign the out of work list. You were provided a copy of the decision explaining the reasons for your removal. Because you did not sign the out of work list and you were not employed at the trade during the two years before your nomination, the union properly determined that you were ineligible to be a candidate for office.

For the reasons set forth above, the Department has concluded that no violation of the LMRDA occurred. Accordingly, the office has closed the file on this matter.

Sincerely,

Patricia Fox, Chief
Division of Enforcement

cc: James T. Callahan, General President
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