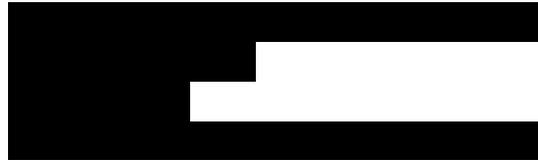




August 27, 2009



Dear [REDACTED]:

This Statement of Reasons is in response to your complaint filed on May 14, 2009, with the Department of Labor alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-484, occurred in connection with the election of officers conducted by the Sindicato Equipo Pesado Construcción y Ramas (Sindicato or union), on January 25, 2009.

You raised several allegations in your protest regarding the union's January 25, 2009 election. Under Section 402(a) of the LMRDA, a member of a local organization who has exhausted the remedies available under the constitution and bylaws of such organization and of any parent body may file a complaint with the Secretary of Labor within one calendar month. 29 U.S.C. § 482(a). The Sindicato contends that you are not a member of the union. You, however, contend that you are a retiree and lifetime member and, as such, are exempt from paying dues.

The Department investigation established that the union has three types of members: active, affiliated and lifetime members. An active member is one who is actively working and paying union dues. An affiliated member is one who has paid an initial affiliation fee of \$100.00 and continues to pay membership dues. Pursuant to Article XIV, Section 1, of the union's constitution, every affiliated member that has maintained his eligibility during ten uninterrupted years will qualify to be a lifetime member of the Organization as soon as he retires or becomes incapacitated.

The Department investigation revealed, and you agree, that on December 16, 1998, you affiliated with the union when you paid a \$100.00 affiliation fee. It also appears from the union records that when you served as first vice president for six years until November 2004, you were exempt from paying dues. When you resigned from this officer position in November 2004, you had not been a member for ten years since your

December 16, 1998 affiliation. Therefore, at that time, you did not qualify to be a lifetime member exempt from paying union dues.

Because you did not qualify to be a lifetime member, as a member who was actively working, you were required to continue to pay dues to maintain your status as a member in good standing. According to Article VI, Section 10 of the union's constitution, a member working under a collective bargaining agreement has to pay dues. If a member works for a company that has no collective agreement with the union, the member is responsible for paying his own dues to retain his union membership. The investigation revealed that you worked for Robles Asphalt Company, a company that has no collective agreement with the Sindicato, for a period of time in 2006, 2007 and 2008. A review of the union's records reveals that you have not paid any dues since November 2004, and you admit that you did not pay dues while employed by Robles Asphalt to maintain your affiliation.

The union properly determined that you were not a member because you have not paid dues since 2004, and you did not qualify for lifetime membership, which would have exempted you from paying dues. Consequently, you were not a member at the time of the election or at the time that you filed your protest with the Department of Labor. As a result, the Secretary has no authority to consider the merits of your protest.

For the reasons set forth above, I have closed the file in this matter.

Sincerely,

Cynthia M. Downing  
Chief, Division of Enforcement

cc: Mr. Jose Catala Arzola, President  
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Katherine Bissell, Associate Solicitor for Civil Rights and Labor-Management