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November 5, 1974

Gentlemen

This is in reply to your letter, dated November 8, 1974, concerning the Employee Retirement Income Security Act of 1974 (ERISA).

Your letter relates to the Severance Pay Plan (Plan) which pays benefits to full-time, salaried officers, agents and dispatchers of the (Council) and Participating Locals within the Council upon their termination of employment. The Plan is administered by a Governing Board, and benefits are funded by uniform assessments and per capita taxes collected from the Participating Locals and forwarded to the Board where they are held in a separate account. You ask whether or not the Plan is covered by the ERISA.

We cannot agree with your contention that the Plan is little more than an enforced savings plan. As the Plan has been established and is maintained by an employee organization to the extent that by its express terms or as a result of surrounding circumstances it "results in a deferral of income by employees for periods extending to the termination of covered employment or beyond, regardless of the method of calculating the contributions made to the plan, the method of calculating the benefits under the plan or the method of distributing benefits under the plan", it is an employee pension benefit plan within the definition contained in Section 3(2)(B) of the ERISA. Additionally, as such employee organization represents employees engaged in commerce or in an industry or activity affecting commerce, and as none of the five exceptions set out in section 4(b) of the ERISA are applicable to the Plan, it is an employee pension benefit plan covered by such Act.

If we may be of further assistance to you, please write to us again.

Sincerely yours,