



March 5, 2019



Dear [REDACTED]

This Statement of Reasons is in response to your complaint, received by the United States Department of Labor (Department) on May 15, 2018. The complaint alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred in connection with the May 31, 2018 officer election conducted by the Laborers' International Union of North America Local 872 (Local 872).

The Department conducted an investigation of your allegation. As a result of the investigation, the Department has concluded, with respect to your allegation, that there were no violations of the LMRDA that may have affected the outcome of the election.

Section 401(e) of the LMRDA provides that every member in good standing shall be eligible to be a candidate and to hold office subject to reasonable qualifications uniformly imposed. 29 U.S.C. § 481(e). To be a candidate in the election, Article V, Section 4 of the Uniform Local Union Constitution (ULUC) requires members be working at the calling during the entire year immediately prior to nomination. "Working at the calling" includes, among other things, employment for which Local 872 serves as the exclusive collective bargaining representative of employees and periods of unemployment where the member is available for and continuously and actively seeking employment at the calling in full compliance with the rules of the union's referral service or hiring hall. ULUC Art. V, § 4.

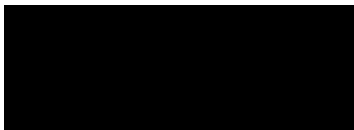
Additionally, Article V, Section 11 of the ULUC provides that any person who receives a pension from a pension or retirement fund related to the union shall be presumed to be a retiree and therefore not working at the calling. However, a pension recipient may be eligible for office if he or she affirmatively demonstrates to the Election Judges that he or she meets the constitutional qualifications for office. ULUC Art. V, § 11.

You alleged that you were improperly disqualified as a candidate for President because you are retired and receive a pension. At the May 2, 2018 Special Hearings Panel, you maintained that you are eligible to run for office because you pay full union dues and

had maintained your name on the out-of-work list for the year preceding your nomination. The Panel, however, found that you inexcusably turned down work on at least three occasions in the year preceding your nomination, and you admitted that you had not "been on any job" within the preceding year. The Panel explained that simply maintaining your name on the out-of-work list without performing any covered employment was insufficient to overcome the presumption of retirement. The Department's investigation revealed that even if you maintained your name on the out-of-work list, you have collected a union pension since 2007 and did not perform any work for over a year leading up to the nomination meeting. Thus, you did not overcome the presumption of retirement and affirmatively demonstrate that you have been working at the calling in the year immediately prior to your nomination. As such, your allegation does not constitute a violation of the LMRDA.

For the reasons set forth above, the Department has concluded that there were no violations of the LMRDA that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,



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Chief, Division of Enforcement

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