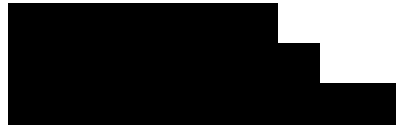




June 13, 2019



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on March 12, 2019, alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the regularly scheduled election of union officers conducted by the International Association of Machinists and Aerospace Workers (International), Local Lodge W-38, on November 15, 2018.

The Department of Labor (Department) conducted an investigation of your allegation. As a result of the investigation, the Department has concluded, with respect to the specific allegation, that there was no violation of the LMRDA that may have affected the outcome of the election. The following is an explanation of this conclusion.


You alleged that two unopposed candidates for office failed to meet the working at the trade requirement, as prescribed in the International constitution and, therefore, the candidates should have been disqualified from candidacy. Section 401(e) of the LMRDA provides that a union must conduct its election of officers in accordance with its constitution and bylaws. 29 U.S.C. § 481(e); 29 C.F.R. § 452.109. Section 401(e) of the LMRDA further provides that members in good standing are eligible to be candidates and to hold office. 29 C.F.R. § 452.32. The investigation showed that at the time of nominations and the election, the challenged candidates satisfied the working at the trade requirement and were otherwise eligible to hold and serve in office.

Specifically, Article B, section 3 of the International constitution prescribes the working in the trade requirement for candidacy. This provision provides that all candidates for elective office must have been working at the trade for at least six months prior to nominations to qualify for nomination and election. According to the International, members participating in a retraining program provided under the North America Free Trade Agreement (NAFTA) are considered to be working at the trade.

The investigation disclosed that the two candidates you stated failed to meet the working at the trade requirement became unemployed in August 2016 as a result of a plant closure. Soon after that closure the candidates enrolled in a NAFTA retraining program and were participating in such program at the time of nominations. Therefore, the candidates had been working at the trade for at least six months prior to nominations, as required by the International constitution, and were eligible for nomination and election to office. There is no evidence that the union applied the working at the trade requirement in an unreasonable manner or that such requirement was not applied in a uniform way. 29 C.F.R. § 452.53. Neither the International constitution nor the LMRDA was violated.

For the reasons set forth above, it is concluded that there was no violation of the LMRDA that may have affected the outcome of the election. Accordingly, the office has dismissed your complaint and closed its file in this matter.

Sincerely,



Brian A. Pifer
Chief, Division of Enforcement

cc: Robert Martinez, Jr., International President
International Association of Machinists and Aerospace Workers
9000 Machinists Pl.
Upper Marlboro, MD 20772-2687

Rick Simpson, President
IAMAW Local Lodge W-38
1801 W. Railroad Ave.
Shelton, WA 98584

Beverly Dankowitz, Associate Solicitor for Civil Rights and Labor-Management

bcc: SFSEADO DIS File: 530-6015513(01)
OLMS/DOE/KING/FPB N-5119/202-693-1243/June 4, 2019

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| Initials | <i>CK</i> | BAP | | |
| Date | 06/04/19 | 06/12/2019 | | |
| Last Name | KING | PIFER | | |
| Title | DOE Inv. | DOE Chief | | |

Case String: 530601551301 LM: 543106 DOE Number: 9272