



May 24, 2016



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the Department of Labor on January 28, 2016, alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred in connection with the election of union officers conducted by Local 179, Operative Plasterers' and Cement Masons' International Association, on December 19, 2015.

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.

You alleged that you were nominated for the office of business manager, but the union improperly found that you were not a member in good standing and disqualified you from candidacy.

Section 401(e) of the LMRDA provides that every member in good standing is eligible to be a candidate and to hold office. Article 16, section 1(A)(3) of the International's constitution and Article 6, section B(3) of the Local 179's constitution and bylaws provide that a member is considered to be in good standing if at no time in the twelve months preceding the date of the nomination meeting the member owed more than two months in local dues, working dues, and other assessments. The twelve-month period preceding the November 17, 2015 nomination meeting covered November 17, 2014 to November 17, 2015. Thus, you must not have been more than two months in arrears during that twelve-month period to be considered in good standing and eligible for candidacy.

The investigation disclosed that at the time of the November 17, 2015 nomination meeting you owed working dues from April of 2014 to October of 2014. Thus, you were more than two months delinquent in the payment of dues. As a result, you were not in good standing at the time of nominations and, thus, you were not eligible to run for

office. However, we note that Article 12, Section D of Local 179's constitution and bylaws states, "[w]hen a member is two months in arrears, he shall be notified by the Financial Secretary of this [Section] and [Section C]. . . ." The investigation disclosed that Local 179 first learned in September of 2014 that you had not paid working dues since March 2014. However, it was not until November 17, 2015, during the nomination meeting, and in a letter dated December 10, 2015, that the union notified you that you were not in good standing and ineligible for candidacy because of the dues delinquency. In January of 2016, the union informed you in writing that you owed \$2,477.43 in back working dues. The union did not provide you with timely notice of your ineligibility or the unpaid dues as it was required to do.

Although the union failed to provide notice to you, the investigation showed that in April of 2014, in order to circumvent the bargaining contract's requirement that working dues be paid, you voluntarily entered into your own arrangement with a signatory employer whereby no working dues would be deducted from your pay,. As a result, no dues were deducted from your pay from April of 2014 to October of 2014, the seven months that you were employed by that employer. Since you entered into the arrangement to intentionally avoid paying working dues, you knew or should have known that you owed and had not paid dues. Under these circumstances, the Local's failure to provide you with notice of your dues delinquency is not a sufficient error to warrant that you should be considered to be in good standing and were eligible to run for office during the 2015 election. The LMRDA was not violated.

According, we are closing our file on this matter.

Sincerely,

Sharon Hanley
Chief, Division of Enforcement

cc: Patrick D. Finley, International President
Operative Plasterers' and Cement Masons' International Association
11720 Beltsville Drive, Suite 700
Beltsville, Maryland 20705

Dave Williams, President
OPCMIA Local 179
5204 Mahoning Ave.
Austintown, OH 44514

Beverly Dankowitz, Acting Associate Solicitor
Civil Rights and Labor-Management Division