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May 14, 2013

Ms. Kathryn Ruemmler
Counsel to the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Ms. Ruemmler:

We are deeply concerned by allegations that Richard Griffin, while serving as General Counsel of the International Union of Operating Engineers (IUOE), participated in a conspiracy to conceal the embezzlement of union funds from IUOE Local 501 and its members, as well as deprive those union members of a fair and honest election. On January 9, 2012 President Obama recess appointed Richard Griffin to the National Labor Relations Board (NLRB) while the Senate was regularly meeting in *pro forma* session. Most recently, on February 13, 2013 President Obama nominated Mr. Griffin for the NLRB. We respectfully request information, documents, and communications concerning the allegations against Richard Griffin collected by the White House during his appointment and nomination process.

Members and former officers of IUOE Local 501 recently filed a class action lawsuit in the United States District Court, Central District of California against IUOE, its officers, and their co-conspirators.¹ The complaint alleges IUOE, its officers, and their co-conspirators aided and abetted in and/or embezzled and/or withheld millions from IUOE Local 501 and its members, prevented IUOE Local 501 from expanding its membership, and denied the members of IUOE Local 501 the right to freely select its own officers via a fair and honest election.²

The complaint alleges the following: In 2007, after reviewing IUOE Local 501's Apprenticeship Trust financial records, James McLaughlin, Business Manager of IUOE Local 501, identified improper, personal charges related to food, beverage, and travel purchases.³ Mr. McLaughlin conducted an investigation with the assistance of Finn Pette, a Business Representative and elected officer of IUOE Local 501, Daniel Himmelberg, the Assistant Business Manager, and an

¹ Compl. at 1-6, *Pette et al. v. International Union of Operating Engineers et al.* (C.D. Cal. 2012).

² *Id.* at 1.

³ *Id.* at 9.

outside auditor.⁴ The investigation determined that Dennis Lundy, the head of the Apprenticeship Trust fund and Western Regional Director, had embezzled thousands from the Apprenticeship Trust.⁵ In 2008, IUOE General President Vince Giblin demanded that Mr. McLaughlin drop the Lundy investigation.⁶

According to the complaint, on June 11, 2009 Mr. Giblin ordered Mr. McLaughlin to resign.⁷ Mr. McLaughlin refused.⁸ At this point Richard Griffin, then-IUOE General Counsel, stepped in as the primary intermediary between IUOE and IUOE Local 501, allegedly to secure Mr. McLaughlin's and later Mr. Pette's resignation, and to conceal Mr. Lundy's embezzlements.⁹ In 2009, Mr. McLaughlin resigned and Mr. Pette was fired.¹⁰

Later in 2009, to keep Mssrs. Pette and Himmelberg from running for office in the 2010 IUOE Local 501 elections, the IUOE brought unspecified charges against the two men and, as a result, the IUOE Election Committee allegedly disallowed Mssrs. Pette and Himmelberg from running for office.¹¹ Additionally, the IUOE Election Committee imposed arbitrary rules relating to the collection of signatures to qualify for the ballot and denied the "resistance slate," made up of former IUOE Local 501 officers, a position on the ballot.¹²

The extent of Mr. Griffin's involvement in IUOE Local 501's 2010 election is unclear. However, during the election, Mr. Griffin was in contact with IUOE Local 501's Business Manager.¹³ Presumably, as IUOE General Counsel, Mr. Griffin would have been involved in all IUOE legal issues, including the investigation of ethics complaints and changes to union officer election rules.

Allegations of misconduct against any government official are troubling. However, our concerns in this matter are exacerbated by the unprecedented recess appointment of Mr. Griffin and two other individuals to the NLRB while the Senate was regularly meeting in *pro forma* session. At the time of Mr. Griffin's recess appointment to the NLRB, he had not filed the required committee application, gone through the normal vetting process that includes a background check, or appeared in a Senate confirmation hearing. Thus, Congress and the American people were deprived of the opportunity to vet and question Mr. Griffin prior to his appointment.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 11.

⁷ *Id.* at 12.

⁸ *Id.*

⁹ *Id.* at 12-19.

¹⁰ *Id.* at 19.

¹¹ *Id.* at 29.

¹² *Id.* at 29.

¹³ *Id.* at 29.

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The NLRB is “an independent federal agency vested with the power to safeguard employees’ rights to organize and to determine whether to have unions as their bargaining representative.”¹⁴ We have no opinion as to the validity of the allegations against Mr. Griffin; however, the allegations against Mr. Griffin clearly directly relate to the appropriateness of his appointment and continued service on the NLRB. What is unclear is whether the White House was aware of these allegations when Mr. Griffin was appointed to the NLRB in 2012, and what steps it took to address the validity of the allegations prior to Mr. Griffin’s 2012 appointment to and 2013 nomination for the NLRB.

Since taking office, President Obama has been a champion for union interests. As such, we fully expect your interest and cooperation in determining whether an active member of the NLRB was engaged in a conspiracy to conceal the embezzlement of union member funds and deny union members a fair election.

Please provide the following no later than May 28, 2013:

1. The date the White House became aware of the allegations against Richard Griffin;
2. The identities of the White House personnel that vetted Richard Griffin prior to his 2012 appointment to and February 2013 nomination for the NLRB; and
3. All documents and communications regarding the allegations against Richard Griffin.

If you have any questions regarding this request, please contact Marvin Kaplan, Committee on Education and the Workforce, at (202) 225-7101.

Sincerely,



JOHN KLINE
Chairman
Committee on Education and the Workforce



PHIL ROE
Chairman
Subcommittee on Health, Employment,
Labor, and Pensions

cc: The Honorable George Miller, Senior Democratic Member, Committee on Education and the Workforce

¹⁴ *What We Do*, National Labor Relations Board, (last visited on January 23, 2013) available at <http://www.nlr.gov/what-we-do>.