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May 14, 2013

The Honorable Seth Harris  
Acting Secretary  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

Dear Acting Secretary Harris:

We are seriously concerned by allegations that the International Union of Operating Engineers (IUOE), its officers, and their co-conspirators aided and abetted in and/or embezzled and/or withheld millions of dollars 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.<sup>1</sup> We respectfully request information, documents, and communications related to any agency action involving IUOE Local 501 or its trusts.

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.<sup>2</sup> The complaint clearly states the Department of Labor was aware of at least two of the allegations prior to the filing of the lawsuit: the embezzlement of funds from IUOE Local 501's Apprenticeship Trust and the denial of union members' right to a fair and honest election.

According to the complaint, in 2007, after reviewing IUOE Local 501's Apprentice Trust financial records, James McLaughlin, then-Business Manager of IUOE Local 501, identified improper personal charges related to food, beverage, and travel purchases.<sup>3</sup> 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 outside auditor.<sup>4</sup> At the same time, they notified the Department of Labor and filed revised

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

<sup>2</sup> *Id.* at 1.

<sup>3</sup> *Id.* at 9.

<sup>4</sup> *Id.*

reports on the trust.<sup>5</sup> Ultimately, IUOE Local 501's investigation determined that Dennis Lundy, the head of the Apprenticeship Trust fund and Western Regional Director, had embezzled thousands from the Apprenticeship Trust.<sup>6</sup>

According to the complaint, 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 disallowed Mssrs. Pette and Himmelberg from running for office.<sup>7</sup> Additionally, the 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.<sup>8</sup> According to the complaint, the Department of Labor determined that IUOE Local 501's 2010 union officer election process violated members' rights under the *Labor-Management Reporting and Disclosure Act* (LMRDA).<sup>9</sup> However, the complaint does not specify the grounds upon which the Department of Labor made its determination or whether a new election was ordered.

As you know, the Department of Labor's Office of Labor-Management Standards (OLMS) investigates criminal and civil violations of the LMRDA, including embezzlement and impermissible union election procedures.<sup>10</sup> Additionally, OLMS audits union finances.<sup>11</sup> As the front line agency responsible for enforcing the LMRDA,<sup>12</sup> it is not surprising the plaintiffs notified OLMS when they discovered the embezzlement and sought OLMS's help when they believed their rights under the LMRDA had been violated.

To ensure OLMS has fulfilled its responsibilities to IUOE Local 501 union members, please provide the following no later than May 28, 2012:

1. The date the Department of Labor became aware of the allegations against IUOE, its officers, and co-conspirators;
2. The date upon which OLMS completed its last audit of IUOE Local 501; and
3. All documents and communications relating to IUOE Local 501, including, but not limited to, the 2010 IUOE Local 501 union officer election report and findings.

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<sup>5</sup> *Id.* at 10.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 29.

<sup>8</sup> *Id.* at 29.

<sup>9</sup> *Id.* at 56.

<sup>10</sup> *2011 Annual Report*, Office of Labor-Management Standards, 1 (January 2012), available at [http://www.dol.gov/olms/regs/compliance/annualreports/highlights\\_11.pdf](http://www.dol.gov/olms/regs/compliance/annualreports/highlights_11.pdf).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

The Honorable Seth Harris  
May 14, 2013  
Page 3

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