



April 16, 2013



Dear [REDACTED]

This Statement of Reasons is in response to your complaint filed on July 29, 2012, alleging that a violation of Title IV of the Labor Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the United Brotherhood of Carpenters and Joiners of America, Millwright Pile-Driver, Local 1090 election held on May 15, 2012.

The Department of Labor conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to your allegations, that there was no violation that may have affected the outcome of the election.

You alleged that the single nomination meeting held in South Point, Ohio did not provide a reasonable opportunity to nominate candidates for office because of the distance that members had to travel to attend the meeting to make a nomination. You also contend that members who lived near South Point had an unfair advantage in being nominated. Section 401(e) of the LMRDA provides that in any election subject to Title IV, a reasonable opportunity shall be given for the nomination of candidates. A requirement that members must be present at the nomination meeting in order to be nominated for office might be considered unreasonable in certain circumstances. For example, in the absence of a provision for an alternative method under which a member who is unavoidably absent from the nomination meeting may be nominated, such a restriction might be regarded as inconsistent with the requirement in Section 401(e) that there be a reasonable opportunity to nominate and to be a candidate. 29 C.F.R. § 452.59.

Section 31(D) of the United Brotherhood of Carpenters' (UBC) Constitution provides that nominees had to be present, except that a member in the anteroom on authorized business or out on official business, or prevented by accident, sickness or other substantial reason accepted by Local 1090, could also be nominated.

The investigation established that Local 1090 was created in November 2011 by merging five locals from Cincinnati, Toledo, Columbus, South Point and Cleveland, Ohio. The investigation also revealed that a postcard nomination notice was mailed to members on April 28, 2012, to inform them that the nomination meeting would be held on May 15, 2012, in South Point, Ohio, the southernmost part of the state. Local 1090 members live throughout the state of Ohio and parts of Kentucky and West Virginia.

The investigation established that members residing in Toledo and Cleveland, Ohio would have approximately a five hour drive one way to the site of the nomination meeting in South Point, Ohio. You stated that you did not attend the nominations meeting because you are disabled and that the nearly three hour drive each way would have been difficult and that you probably would have nominated [REDACTED] for president and [REDACTED] for treasurer, even though you had not spoken to either one of them about being nominated. The investigation found that neither of these individuals would confirm on the record that they would have accepted a nomination or would run for office if nominated in a new election. Neither of these individuals knew of anyone who wanted to nominate, but was unable to do so.

The Department conducted an e-mail survey using the 426 e-mail addresses that Local 1090 had on file to determine whether any members were prevented from nominating a candidate for office because of the location of the meeting. OLMS received 43 responses from members and five stated that they wanted to make a nomination, but were unable to attend the meeting. One of these respondents was not eligible to nominate since he was not in good standing. OLMS attempted to contact the other respondents. While three respondents who were eligible and wanted to nominate candidates for office may have been deprived of a reasonable opportunity to do so because of the distance each would have had to travel to attend the nomination meeting, the investigation established that their potential nominees would not have definitively accepted a nomination. The other respondent who indicated he wanted to nominate in the survey did not respond to the investigator's efforts to interview him. Lastly, there were three other respondents who said they wanted to be nominated and were in fact nominated for positions. Two other respondents said that they wanted to be nominated but failed to identify for which position and refused to be interviewed for the investigation.

With regard to your allegation that members who lived near South Point had an unfair advantage in being nominated for office, the investigation revealed that there were three nominees from the old South Point Local, two of whom were incumbents. The investigation did not reveal any evidence that these nominees had an unfair advantage because they were members of the former South Point Local and did not have to travel a great distance to attend the nomination meeting. As you are aware, these nominees and others were elected by acclamation at the nomination meeting.

The Department has determined that Local 1090's nomination process, which requires some members to travel long distances on a weekday in order to make a nomination, does not afford members a reasonable opportunity to nominate candidates for office. The investigation revealed that there was no evidence that any member was denied the right to run for office. It would appear that all members who desired to run for offices were nominated, and that no nominations were ignored or refused. Accordingly, the investigation did not reveal sufficient evidence to conclude that a violation occurred that may have affected the outcome of the election.

You alleged that Local 1090 failed to follow the UBC Constitution and Bylaws regarding nominations in violation of Section 401(e) of the LMRDA. Section 401 (e) of the LMRDA

provides that a union election shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of Title IV.

The investigation established that Section 31 of the UBC Constitution clearly spells out the procedures to be followed by local unions while conducting nominations and election. However, there is no provision in the UBC Constitution that provides that a local union must have bylaws before the union can conduct an election of officers. Even though Local 1090 did not have bylaws at the time of the election, Local 1090 properly followed the procedures outlined in the UBC Constitution for its nominations. There was no violation of the LMRDA.

You alleged that union funds were used to promote the candidacy of the incumbents when the executive board received union funds or in-kind expenses to attend the nomination meeting. Section 401(g) provides that union funds may not be contributed or applied to promote the candidacy of any person in an election subject to Title IV.

The investigation established that President Donald Crane, a senior manager with the regional council, is expected to attend all Local 1090 meetings. As a senior manager, Crane had the authority to drive to the nominations meeting in a regional council-owned vehicle. Also, he was issued a credit card issued by the regional council to be used for expenses related to his travel to union meetings. In addition to Crane, the investigation revealed that seven other business agents and officers had access to regional council-owned vehicles in their roles as business agents for the Indiana, Kentucky, Ohio Regional Council of Carpenters (IKORC), and could have used these vehicles to drive to union meetings, including the May 15, 2012 membership and nomination meeting. Having a union car and receiving reimbursement for travel expenses to required union meetings is a legitimate union business expenditure and not viewed as a promotion of any candidate for office. There was no violation of the LMRDA.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV of the LMRDA that may have affected the outcome of the election, and I am closing our file regarding this matter.

Sincerely,

Patricia Fox  
Chief, Division of Enforcement

cc: Mr. Douglas J. McCarron, General President  
Carpenters  
101 Constitution Avenue, NW  
Washington, DC 20001

Mr. Don Crane, President  
Millwright Pile-Driver Local 1090



Christopher B. Wilkinson  
Associate Solicitor for Civil Rights and Labor-Management