



May 4, 2010



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint that you filed with the United States Department of Labor ("Department") on January 12, 2010 alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 ("the Act"), as amended 29 U.S.C. §§ 481-484, occurred in connection with the election of officers for Texas Carpenters & Millwrights Regional Council (the "Council"), an intermediate body of the United Brotherhood of Carpenters and Joiners of America ("UBC"), conducted on August 15, 2009.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded that no violations affecting the outcome of the election occurred.

You allege that the Council improperly permitted an alternate delegate who had not been properly sworn in to vote in the election. The Department's investigation did not substantiate this claim. Section 401(e) of LMRDA, 29 U.S.C. § 481(e) requires unions to hold covered elections in accordance with their validly adopted constitution and bylaws. *See* 29 C.F.R. § 452.2. The Council's Bylaws state: "Only Delegates or Alternates (sitting in for an absent delegate) duly elected in compliance with Section 31-D of the (UBC Constitution) are permitted to vote in the Council's Officers elections." The Bylaws do not require delegates to be sworn-in in order to cast a ballot. There was no violation of the Act.

You also allege that the Council permitted a delegate who was not in good standing as a result of working assessment arrearages to vote. The investigation confirmed that the delegate was not current in his working assessments. However, the investigation also revealed that pursuant to Section 45C of the UBC Constitution the Council was required to notify the delinquent delegate in writing and provide him 30 days to pay the arrearage: "If a member who owes such dues or fees fails to pay them as provided by

the Local Union, District Council, or Regional Council...such dues or fees shall be charged to the member by the Financial Secretary by notice in writing that same must be paid within 30 days to entitle the member to any privilege, rights or donations. If the member does not make payment of arrears within the time prescribed, he shall not be in good standing..." In this case, the Council did not notify the delegate of the arrearage and demand payment until after the election. There was no violation of the Act.

You also allege that the Council's out-going executive secretary-treasurer ("EST") used union resources to campaign when he called you from a union telephone and during the conversation asked you who you were supporting in the election. Section 401(g) of the Act, 29 U.S.C. § 481(g), prohibits the use of union funds or resources to promote the candidacy of any person in an election. The investigation revealed that the EST asked who you and your delegates were supporting and you replied that you were supporting [REDACTED]. The EST then asked, "You are not supporting [REDACTED]?" You responded, "No." The two of you then discussed some grievance cases. The EST did not urge you to support one candidate over another in the election. There was no campaigning within the meaning of section 401(g). There was no violation of the Act.

You also allege that a candidate for EST used a union telephone to make a campaign call to a delegate. The investigation confirmed that the candidate did call the delegate to promote his own candidacy. However, the investigation revealed conflicting evidence on the location from which the telephone call was made. However, even if a union telephone was used to make the call, the single call did not affect the outcome of the election because the campaigning candidate won his race by a margin of nine votes. Thus, there was no violation affecting the outcome of the election.

For the reasons set forth above, the Department has concluded that there was no violation of Title IV affecting the outcome of the election and I have closed the file in this matter.

Sincerely,

Patricia Fox
Acting Chief, Division of Enforcement

cc: Douglas J. McCarron, General President
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