



January 11, 2017

[REDACTED]

Dear [REDACTED]:

This Statement of Reasons is in response to your complaint to the Department of Labor, received July 22, 2016, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act (LMRDA), occurred in connection with the June 1, 2016 election of officers and delegates conducted by Local 1505 (local or Local 1505) of the United Brotherhood of Carpenters and Joiners of America (International).

The Department of Labor conducted an investigation of your allegations. As a result of the investigation, the Department concluded that the International had a reasonable basis to order a new election for the positions of Local 1505 delegate and alternate delegate. These delegates are the Local 1505 representatives to the Southwest Regional Council of Carpenters.

In your complaint, you alleged that the International's decision to order a rerun election for only the two delegate and one alternate delegate positions was not a sufficient remedy for violations occurring in the election. The Department, however, concluded that the International's decision to conduct a rerun did not violate the LMRDA.

As a matter of policy, the Department does not generally interfere with an international's decision to rerun a subordinate body's election for the following reasons. The requirement set out in section 402(a) of the LMRDA that a member exhaust internal union remedies before complaining to the Secretary of a violation of the LMRDA was included in the Act to give unions a chance to correct election problems and deficiencies without government intervention, thereby preserving a maximum amount of independence and encouraging responsible self-government. In furtherance of this legislative objective, the Secretary accords a degree of deference to union decisions on internal union election protests providing for the conduct of a new election. As such, the Secretary will not seek to reverse a union's remedial decision to hold a new election, even if the evidence could be viewed as insufficient to support a decision by the Secretary to sue to overturn the original election, unless it is apparent that the decision

was based on the application of a rule that violates the LMRDA; the decision was made in bad faith, such as to afford losing candidates a second opportunity to win; or the decision is otherwise contrary to the principles of union democracy embodied in the statute and holding a new election is unreasonable.

You alleged that the International had no basis to order a rerun of the election for alternate delegate. You maintain that the International Constitution's silence with regard to the election of alternate delegates does not, in and of itself, authorize the local to include that position on the ballot. Including the alternate delegate position on the ballot avoids a potential LMRDA violation in the event that an alternate delegate has to serve in the place of a delegate. Under the LMRDA, delegates who elect officers of an intermediate body, such as the Southwest Regional Council, must be elected by secret ballot vote of the local members. 29 C.F.R. § 452.123. The union's inclusion of the position on the ballot did not violate the constitution or the LMRDA.

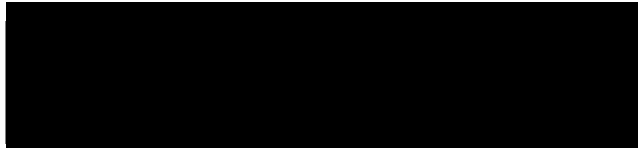
You also alleged that the International erred by not including in its remedial order a requirement that the position of president – the only other contested position – be rerun as well. The Department of Labor investigation revealed that the International's remedial order corrected the local's failure to notify its members regarding an election for alternate delegate and also corrected the confusing ballot instruction regarding the election of two delegates. By contrast, the ballot instruction for president was clear, directing the voter to vote for one of two listed candidates. The Department's review of the ballots showed that each of the 22 members who voted had marked only one presidential candidate. Thus, voter intent was clear, with 13 votes cast for the incumbent president and 9 votes cast in your favor. There were no defects in the election of president, and the International properly did not include that office in its remedial order.

You, however, alleged that the International should have disregarded any votes for president on any ballot containing invalid votes cast for delegates and alternate delegate. Section 401(e) provides that every member in good standing shall have the right to vote. To protect a member's right to vote, a union must count any ballot voted in such a way as to indicate fairly the intention of the voter, and not void an entire ballot because of a mistake made in voting for one of the offices on the ballot. 29 C.F.R. § 452.116. The investigation disclosed that one ballot cast contained a vote for each of the four listed candidates listed for "Delegates to Council," instead of the maximum of three votes. Contrary to your assertion, the International complied with section 401(e) when it did not disregard votes properly marked for president even if the votes for candidates listed under "Delegates to Council" were voided because the member over voted for that position only.

The International's decision to overturn the election for the two delegate and one alternate delegate positions and rerun those positions was not based on the application of a rule that violates the LMRDA, made in bad faith, or contrary to the principles of union democracy embodied in the statute. The Department determined that the International's order requiring Local 1505 to hold a new election only for these delegate and alternate delegate positions was not unreasonable. Consequently, the Secretary will not seek to reverse the union's remedial decision to hold a new election.

For the reasons set forth above, the Department has concluded that no violation of the LMRDA occurred. Accordingly, the office has closed the file in this matter.

Sincerely,



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Chief, Division of Enforcement

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