



July 22, 2009

[REDACTED]

[REDACTED]

Dear [REDACTED] and [REDACTED]:

This Statement of Reasons is in response to your complaints filed separately on March 8, 2009 and March 23, 2009, alleging that a violation of Title IV of the Labor Management Reporting and Disclosure Act of 1959 ("LMRDA" or "Act"), 29 U.S.C. § 481-484, occurred in connection with the New York City District Council of Carpenters ("NYCDCC" or "Union") election held on December 12-13, 2008. Due to the similar nature of your allegations, both of your complaints have been addressed together in this letter.

The Department of Labor ("Department") 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 of the LMRDA.

In your complaints to the Department, you alleged that candidates on the incumbent "Unity" slate were collecting pensions from at least one Union pension plan and thus should not have been eligible for candidacy in the December election. You specifically alleged that Section 31-D of the Carpenter's Constitution prohibits a candidate from collecting any type of pension. Section 401(e) of the LMRDA establishes that an election shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of this title. The Department's regulations further provide that "the interpretation consistently placed on a union's constitution by the responsible union official or governing body will be accepted unless the interpretation is clearly unreasonable." 29 C.F.R. § 452.3; see e.g. *English v. Cunningham*, 282 F.2d 848 (C.A.D.C. 1960).

The Department investigated your allegation and found that Section 31-D of the Constitution provides that, "a member cannot hold office or the position of Delegate or a Committee position, or be nominated for office, Delegate or a Committee position, if receiving a pension under the UBC Pension Plan." As interpreted by the United Brotherhood of Carpenters and Joiners of America's International Union (International), the UBC Pension Plan refers to the International's pension plan, which is a member funded plan. Additional pension plans exist and are available to Union members, but do not carry the same candidacy restrictions as the International's UBC plan. The other plans include the NYCDCC Pension Plan (called the "Tools" pension) funded by employers and the Retirement and Pension Plan for NYCDCC and Related Organizations funded by members. The International's interpretation of the constitution is consistent with the terms of the constitution and is not clearly unreasonable.

The Department's investigation revealed that the Secretary-Treasurer, Michael Forde, has never collected any pension. The President, Peter Thomassen, and Vice President, Dennis Sheil, were both receiving a Tools pension. Neither candidate was receiving a UBC pension. Thus, candidates Thomassen and Sheil collected from a non-disqualifying pension plan. Permitting these candidates to run for office did not violate the constitution, as interpreted by the union.

It is concluded from the analysis set forth above that the investigation failed to disclose any violation of the Act. Therefore, there is no basis for bringing an enforcement action. Accordingly, I am closing the file on this matter.

Sincerely,

Cynthia M. Downing
Chief, Division of Enforcement

cc: Mr. Peter Thomassen, President
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