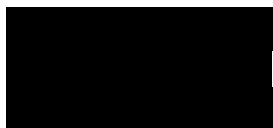


U.S. Department of Labor

Office of Labor-Management Standards
Division of Enforcement
Washington, DC 20210
(202) 693-0143 Fax: (202) 693-1343



February 12, 2021



Dear [REDACTED]

This Statement of Reasons is in response to your complaint filed on October 15, 2019, with the Department of Labor (Department) alleging that a violation of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 481-483, occurred in connection with the election of officers conducted by the United Brotherhood of Carpenters and Joiners of America, (UBC), Local 322, on June 18, 2019.

The 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 that may have affected the outcome of the election.

You alleged that Local 322 did not allow you to use a nickname on the election ballot. Section 401(c) of the LMRDA contains a general mandate that adequate safeguards to ensure a fair election shall be provided. 29 U.S.C. § 481(c). As explained in 29 C.F.R. § 452.110(a), such safeguards are not required to be included in the union's constitution and bylaws, but they must be observed. A labor organization's wide range of discretion regarding the conduct of elections is circumscribed by a general rule of fairness. *Id.* For example, if one candidate is permitted to have his nickname appear on the ballot, his opponent should enjoy the same privilege. *Id.* In this case, you nominated yourself for a delegate position to the North Central State Regional Council of Carpenters (Council). As you are aware, at the nomination meeting you stated that you would only accept the nomination if your name on the ballot could be [REDACTED]. You stated that your nickname stands for "print disability and twice exceptional." During the nominations meeting, Recording Secretary Amanda Phillips denied your request to put your nickname on the ballot, and informed you that the union does not allow nicknames to be used on the ballots. Your name appeared on the ballot as [REDACTED]

██████████” The Department’s investigation did not reveal any evidence that Local 322 allowed nicknames on ballots in the past or on ballots for the June 18, 2019 election. The Local has allowed shortened names of candidates in past elections, and there were many candidates with shortened names on the ballot for the June 18, 2019 election. For example, candidates ██████████ and ██████████ were listed as ██████████ and ██████████ on the ballot, respectively. There was no violation of the LMRDA.

You alleged that Local 322 may have elected too many delegates to the Council when it elected 17 delegates instead of 16. Section 401(e) of the LMRDA requires unions to hold elections in accordance with the constitution and bylaws of such organizations insofar as they are not inconsistent with the provisions of Title IV of the LMRDA. 29 U.S.C. § 481(e). The Department’s investigation revealed that the Council bylaws state that locals with 5,101 to 6,101 members are entitled to elect 17 delegates. The number of delegates is based on all categories of membership, including members in arrears and honorary members, and is determined by the local’s per capita tax report to the International for the month of January of an election year. The Council’s executive secretary-treasurer notifies each local by April 15th of an election year of the number of delegates it is entitled to elect. Local 322’s Executive Assistant to the Executive Secretary-Treasurer, Dennis Haugum, notified Local 322 of the number of delegates it was entitled to elect in the June 18, 2019 election. Using a monthly per capita report from Personify, the UBC’s membership tracking software, Haugum determined that Local 322 was entitled to 17 delegates because it had 5,438 members. The Department’s investigation revealed that Local 322 elected the correct number of delegates to the Council. There was no violation of the LMRDA.

You alleged that Local 322 failed to provide you with a reasonable opportunity to nominate candidates. Section 401(e) of the LMRDA provides that a reasonable opportunity shall be given for the nomination of candidates and every member in good standing shall be eligible to be a candidate and to hold office, subject to reasonable qualifications uniformly imposed. 29 U.S.C. § 481(e). The Department’s investigation found that you attended the May 21, 2019 nominations meeting, but you were asked to leave the meeting for speaking out of order regarding your request to have your nickname appear on the ballot. You initially left the meeting, but when you attempted to return, you found that the outer doors to the building were locked. You alleged that the nominations notice did not state that the building would be locked during the nominations meeting. The investigation found that the Council uses a vendor to manage the automatic locks on the building’s doors because it has had problems with unauthorized people trying to access the building and spend the night. Although you found the doors locked when you attempted to re-enter the building, you stated that you were not aware of anyone who had trouble accessing the building while you were inside the meeting or outside after you were asked to leave the meeting. None of the witnesses interviewed by the Department could identify any member who was unable to attend the nomination meeting to nominate a candidate because the outer doors to

the building were locked. The nomination meeting minutes reveal that you were able to nominate yourself for office before leaving the meeting. There was no violation of the LMRDA.

You alleged that Local 322 denied you the right to inspect the membership list. Section 401(c) of the LMRDA provides that a candidate has the right to inspect a list containing the names and last known addresses of all members once within 30 days prior to the election. 29 U.S.C. § 481(c). The Department's investigation established that you went to the Local without an appointment on June 13, 2019, at 11:30 a.m. to inspect the membership list. General Counsel Robb Nelson agreed to help you even though you did not have an appointment. Nelson told you that you could inspect the membership list between 1:00 p.m. and 3:00 p.m. later that day. The investigation revealed that you told Nelson that you wanted to go home to get your own list, but you had trouble finding your list and did not return to the Local until just before 3:00 p.m. Nelson informed you that you missed the time period to inspect the membership list that day and would have to make another appointment. The investigation revealed that you never made another appointment. There was no violation of the LMRDA.

You alleged that candidate Paul Trudeau and others may have been ineligible to run for office because they failed to meet the eligibility requirement of working at the trade. Section 401(e) of the LMRDA provides, among other things, that every member in good standing shall be eligible to be a candidate and to hold office subject to "reasonable qualifications uniformly imposed." 29 U.S.C. § 481(e). A requirement that candidates be employed at the trade or to have been so employed for a reasonable period is considered reasonable under the LMRDA. 29 C.F.R. § 452.41(a). Section 31-D of the UBC Constitution provides that, to be eligible as a candidate, a member must be "working for a livelihood in a classification within the trade autonomy of the [UBC] . . . or in employment which qualifies him or her for membership, or is depending on the trade for a livelihood, or is employed by the organization as a full-time officer or representative . . ." Working dues are deducted from members' paychecks when they are actively working at the trade.

The Department's review of the eligibility of all candidates revealed that 33 of the 39 candidates were eligible for office because each one paid working dues during the six months leading up to the June 18, 2019 election. The six remaining candidates were either not elected or were candidates for non-LMRDA covered positions.

Trudeau was one of the candidates that paid working dues for six months leading up to the June 18, 2019 election. The investigation established that he was employed as the Director of the Carpenters Training Center until May 20, 2019. When he resigned from his position, he immediately received several job offers. However, he had already planned two one-week vacations and a week of volunteer work, so he did not take a new job immediately. After his vacations and volunteer work, he immediately put his

name on the job referral list and signed an employment contract with [REDACTED], a signatory contractor, on June 28, 2019. Therefore, he met the eligibility requirements of Section 31-D of the UBC Constitution. There was no violation of the LMRDA.

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

Sincerely,

[REDACTED]

Tracy L. Shanker, Chief
Division of Enforcement

cc: Douglas J. McCarron, President
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