



March 24, 2017



Dear [REDACTED]:

This Statement of Reasons is in response to the complaint you filed with the United States Department of Labor on October 4, 2016, alleging that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) occurred in connection with the election conducted by Local 45 of the United Brotherhood of Carpenters and Joiners of America (UBC) on June 28, 2016. The election you challenged was the regularly scheduled election for Local 45 to elect its representatives to the New York City and Vicinity District Council of Carpenters (Council). The representatives elected were one Executive Committee member and eight delegates to the Council delegate body.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to the specific allegations, that there was no violation of the LMRDA.

You alleged that you were prevented from simultaneously running for a seat on the Council's Executive Committee and for delegate to the Council's delegate body. Section 401(e) of the LMRDA requires union officer elections to be conducted in accordance with the union's constitution and bylaws. The investigation disclosed that the union's governing documents are silent regarding whether a candidate may or may not simultaneously run for or hold these positions. However, due to the unique functions and responsibilities of the Executive Committee and the Council's delegate body, the Council has an established practice of prohibiting an individual from simultaneously serving in these capacities. Specifically, the Executive Committee makes recommendations to the Council's delegate body. The Council's delegate body, in turn, votes on the recommendations. To ensure that an individual is not in a position to make such recommendations and, then, vote on the very recommendations he or she has made, the Council has a practice of preventing an individual from simultaneously serving in these positions. Such practice is not prohibited by the LMRDA and, thus, does not violate the statute. Further, the practice does not violate the union's governing

documents; the documents are silent regarding the Council's prohibition against an individual simultaneously serving in the subject positions. There was no violation of the LMRDA.

In addition, you alleged that current Local 45 officers should not have been permitted to run for delegate to the Council's delegate body. Section 401(e) of the LMRDA requires a union to conduct its election of officers in accordance with the union's constitution and bylaws. Section 4(a) of the Council bylaws reads in part, "No Council Officer . . . shall . . . hold an elected or appointed position as an officer in an affiliated local union." The Section 4(a) restriction on holding dual offices expressly prohibits a "Council officer" from simultaneously serving as an officer in a local union. Delegates to the Council's delegate body are not identified as officers of the Council in the Council's bylaws. Section 6 of the bylaws provides, "[t]he officers of this Council shall consist of the president, vice president, executive secretary-treasurer, warden, conductor, and three trustees (collectively, the 'officers')." "Officer," as referenced in section 6 of the Council bylaws, does not include delegates to the Council's delegate body. Therefore, members of the Local 45 executive board were not prohibited from running for delegate to the Council body, for purposes of section 6 of the Council bylaws. There was no violation of the LMRDA.

Finally, you alleged that delegates to the Council's delegate body are officers of the Council because the Council bylaws grant them broad governing and policy making authority and responsibility. In order to achieve Congressional intent of maximizing union self-governance, section 402(a) of the LMRDA requires that a protest regarding a union election be presented first to the union to afford the union the first opportunity to correct election deficiencies, prior to a member filing a complaint with the Department. When a member fails to comply with section 402(a) of the LMRDA, the member is precluded from protesting the issue before the Department. Review of your internal protest and complaint to the Department showed that you did not present this allegation to the union, prior to filing a complaint with the Department, as required by section 402(a) of the LMRDA. Accordingly, the allegation is not properly before the Department and, therefore, is dismissed.

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 have closed the file in this matter.

Sincerely,

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Chief, Division of Enforcement

Cc: Douglas J. McCarron, General President  
United Brotherhood of Carpenters  
101 Constitution Avenue, N.W.  
Washington, DC 20001

Michael A. Rodin, President  
Carpenters Local 45  
214-38 Hillside Avenue  
Queens Village, New York 11427

Beverly Dankowitz Associate Solicitor  
Civil Rights and Labor-Management Division