



UNITED BROTHERHOOD OF CARPENTERS AND JOINERS OF AMERICA

*Andris J. Silins*

General Secretary-Treasurer  
September 25, 2013

**VIA FIRST CLASS MAIL, AND RETURN RECEIPT REQUESTED**

Mr. Mike McCarron



Dear Sir and Brother:

Enclosed please find the decision rendered and penalties imposed by the Trial Committee that was convened to hear the charges brought against you by Michael V Draper, UBC District Vice President, Western District. Please be advised that Section 14D of the UBC Constitution provides, in part, that:

(a)n accused found guilty of violating the Constitution and Laws may be fined, suspended or expelled by majority vote of the Trial Committee subject, however, to appeal to the General Executive Board and the Convention. Appeal of any such decision must be filed with the Secretary of the General Executive Board within thirty (30) days from the date on which notice of the Trial Committee verdict or penalty is mailed to the accused. During the period in which an appeal from such decision may be filed and while an appeal of such decision is pending before the General Executive Board, the penalty imposed shall be stayed.

This letter with enclosure has been mailed to you on **September 25, 2013**. Thus, should you decide to file an appeal, it must be sent to my attention and received in the UBC's General Office no later than thirty (30) days from the date that this letter is mailed to you.

Fraternally yours,

A handwritten signature in cursive script that reads "Andris J. Silins".

Andris J. Silins  
General Secretary-Treasurer

Enclosure

cc: Michael V Draper, District Vice President, Western District (w/enclosure)



To: **Andris J. Silins, General Secretary-Treasurer**  
**United Brotherhood of Carpenters and Joiners of America**  
**101 Constitution Avenue, N.W.**  
**Washington, D.C. 20001**

**DECISION OF THE TRIAL COMMITTEE**

---

<i>In the Matter of:</i>	)	
	)	
Michael V Draper,	)	
	)	
UBC District Vice President, Western	)	Charges:
District	)	
	)	UBC Constitution, Sections
and	)	51 (A)(4), (6), and (12)
	)	
Michael McCarron, a member of the United	)	
Brotherhood of Carpenters and Joiners of	)	
America at all relevant times.	)	

---

The undersigned Trial Committee convened from September 9–12, 2013 at the Carpenters International Training Center in Las Vegas, Nevada, to hear evidence and consider charges against Michael McCarron, former Executive Secretary-Treasurer of the Southwest Regional Council of Carpenters (“SWRCC”).<sup>1</sup>

McCarron is accused of violating Sections 51(A)(4), (6) and (12) of the UBC Constitution. Specifically, he is accused of abusing his dual roles as an officer of the SWRCC and as a trustee of the Southwest Carpenters Training Fund (the “Training Fund”) to enable the SWRCC to overcharge the Training Fund by more than \$5 million through inflated, above-market real estate leases, as set forth in the charging document dated June 28, 2013. He is accused of personally approving lease transactions that were illegal under federal law, and that benefitted unfairly the SWRCC and McCarron personally at the Training Fund’s expense.

---

<sup>1</sup>The Trial Committee was appointed pursuant to UBC Constitution Section 14(D) by General Vice President Douglas J. Banes after dispensation was granted by the General President. The Trial Committee consists of UBC members Frank Spencer, District Vice President for the UBC’s Eastern District; Dave Tharp, District Vice President for the UBC’s Midwestern District; and James Smith, District Vice President for the UBC’s Canadian District.

The Trial Committee heard the testimony of thirteen witnesses, several of whom were called by McCarron. The Trial Committee also received into evidence approximately 125 exhibits offered by both sides, copies of which had been exchanged by the parties the week before the hearing. McCarron appeared on each day of the hearing, and he was given a full and fair opportunity to respond to the charges, and to present a defense. McCarron was represented by a UBC member who acted as his advisor and representative. McCarron and/or his representative had the opportunity to question, and did question, all witnesses who testified. McCarron and his representative were given the opportunity to make statements and arguments, and did so. The proceedings were transcribed by a court reporter.<sup>2</sup>

Generally speaking, the witnesses called by McCarron had little or no knowledge of the leases or associated issues. None of them contradicted the account of the witnesses who testified about McCarron's personal involvement in causing the Training Fund to pay above-market rent to the SWRCC. After initially stating that he would testify in the proceedings, McCarron thereafter refused to testify under oath when he was called as a witness.

Based on the evidence presented, the Trial Committee finds McCarron guilty as charged, and expels him from membership in the UBC. The Trial Committee's specific findings are set forth below.

### FINDINGS

McCarron was the longtime Executive Secretary-Treasurer of the SWRCC before his removal from that position on July 22, 2013. McCarron also was a longtime trustee of the Training Fund, which is a plan covered by the Employee Retirement Income Security Act ("ERISA"). Because of McCarron's officer and trustee positions with the SWRCC and Training Fund respectively, he owed duties of care and loyalty to both organizations.

As Executive Secretary-Treasurer of the SWRCC, McCarron had responsibility for its financial performance and health. The SWRCC paid McCarron's salary and expenses, which were approximately \$300,000 per year.

McCarron took advantage of his position as a Training Fund trustee to benefit unfairly the SWRCC and himself financially at the Training Fund's expense.

---

<sup>2</sup> McCarron previously requested that the initially scheduled hearing dates of August 6-8, 2013 be delayed by thirty days so he would have more time to prepare his defense. The Trial Committee granted McCarron's request and rescheduled the hearing for September 9-13, 2013.

The SWRCC owns or leases a number of real properties throughout its geographic jurisdiction, which includes Southern California, Nevada, Arizona, Utah, New Mexico, and Colorado. The SWRCC leases or subleases certain of those properties to the Training Fund, which uses them for office, classroom, training, and other purposes.

As a Training Fund trustee, McCarron had access to confidential financial and budget information of the Training Fund. Multiple witnesses testified (and meeting minutes confirm) that McCarron and the other trustees discussed and approved the Training Fund's financial statements and budget at regular intervals.

Witness testimony and archived e-mail show that McCarron used the Training Fund's confidential budget information in a manner that other Training Fund trustees did not. Specifically, McCarron used the Training Fund's confidential budget information to benefit the SWRCC at the expense of the Training Fund's participants and beneficiaries. He used the Training Fund's confidential budget information to decide personally the amount of rent that the SWRCC would charge the Training Fund to lease several properties. Although the UBC's Director of Real Estate provided market rent data to the SWRCC, McCarron personally decided to charge the Training Fund rents that, with few exceptions, were substantially higher than market rates. Rather than decide the rent amount through an independent appraisal, or other appropriate means, McCarron began by considering the SWRCC's monetary needs and the Training Fund's budget to see how much it could afford to pay. Witness testimony also showed that McCarron in at least one instance "reverse-engineered" the rental rate to achieve his financial objectives for the SWRCC. He decided what rent the Training Fund would pay, and he then reverse-engineered a rental rate (dollars per square foot) and square footage to achieve the total rental income he had determined. On other occasions, he used market rent data to choose a high rent he knew the Training Fund could afford to pay.

McCarron signed, or directed his chief of staff to sign for him, lease documents establishing above-market rents for several properties in 2005, 2006, and 2008. For properties that had pre-existing leases, McCarron took no steps to renegotiate or reevaluate the rent amounts when the written leases expired and converted to "month-to-month" leases in 2005 or 2006. Because the leases contained "escalation clauses," the rent the Training Fund paid to the SWRCC continued increasing every year without regard to the decline in the real estate market, of which McCarron was well aware and often spoke. The Training Fund's large rent overpayments improved the SWRCC's financial position by more than \$5 million at a time it was suffering large operating losses. McCarron's combined salary and expenses continued to grow

during this time period.<sup>3</sup>

The testimony of multiple witnesses (including one witness called by McCarron) and Training Fund Board meeting minutes establish that McCarron never informed his fellow Training Fund trustees of the role he had played in personally deciding the rent that the Training Fund paid to the SWRCC. McCarron never told his fellow trustees that he personally had decided the rent for certain properties, that he had used the Training Fund's confidential budget information to do so, that the rents were significantly above-market, that the rents were not based on recent appraisals, that rent had been "reverse-engineered," or that certain written leases had expired. The leases signed by McCarron were never presented to the Training Fund's Board of Trustees for review or approval.

McCarron withheld this information from his fellow trustees even after a former Regional Director of the U.S. Department of Labor, hired by the Training Fund as a consultant, advised McCarron and the other trustees in a written report that "[l]eases. . . between plans, unions, and employers violate self dealing rules if leases are consummated by conflicted parties [or] . . . are not at arm's-length," that "[l]ease values should be determined by independent appraisers," that "[l]eases should be negotiated and signed by non conflicted persons," that "[t]rustees of employee benefit plans are fiduciaries," and that "plan fiduciaries cannot [p]articipate in a transaction where the fiduciary has an adverse interest." McCarron apparently was familiar with this report: he kept a personal copy of it, which he included in his own document production and submission of exhibits for this proceeding. Finally, McCarron was aware, from his prior involvement in a transaction between the SWRCC and an employee benefit fund involving property in Las Vegas, that the Department of Labor expects independent appraisals for real estate transactions between the SWRCC and an ERISA plan. In fact, the Department of Labor required two appraisals of the property in question, one in 2010 and another in 2011. At the time, McCarron expressed frustration with the Department of Labor's requirement that the SWRCC pay the 2010 appraised value.

As a Training Fund trustee, McCarron voted to approve the Training Fund's budget, which included payment to the SWRCC of above-market rents that he personally had decided.

---

<sup>3</sup>McCarron failed to submit receipts or otherwise substantiate any business purpose for hundreds of expenses he charged to the SWRCC's credit card during this time period. The evidence concerning his failure to submit receipts formed no part, however, of the Trial Committee's finding that McCarron was guilty of the charges.

Starting in late 2011, the Training Fund's Board of Trustees undertook to confirm that the Training Fund was in compliance with certain requirements of ERISA. Independent appraisals of the fair market rents for the properties leased by the SWRCC to the Training Fund were obtained. Independent appraisers from the commercial real estate brokerage firms Cushman & Wakefield and CB Richard Ellis concluded that the SWRCC had substantially overcharged the Training Fund to lease a number of properties. Additional opinions by certified real estate appraisers from Fulcrum Financial Inquiry, LLP and Integra Realty confirmed the original findings of Cushman & Wakefield and CB Richard Ellis. Contemporaneous e-mail reflects that McCarron sought to delay communication of the appraisers' findings to his fellow Training Fund trustees. Testimony and other evidence further indicated that McCarron delayed payment of the rent overcharges because McCarron believed he could find an appraiser to opine that market rents were higher than the other appraisers had determined.

Effective December 31, 2012, the Training Fund's trustees hired a Qualified Professional Asset Manager ("QPAM") to make discretionary decisions on behalf of the Training Fund. The QPAM on May 31, 2013 sent a bill demanding that the SWRCC repay the Training Fund \$4,736,970.52, including compound interest, for rent overcharges from 2008 through 2012. McCarron the same day authorized a \$4,736,970.52 pre-signed check from the SWRCC to the Training Fund.<sup>4</sup> McCarron did not present the bill or check to the other individual who had pre-signed the blank check. McCarron did not present the QPAM's bill to the SWRCC's trustees for investigation as required by the SWRCC's bylaws. McCarron also did not consult, poll, or obtain approval from the SWRCC's Executive Committee before unilaterally authorizing that check. He never informed the SWRCC's Executive Committee that the payment included more than \$250,000 of compound interest that the Training Fund claimed from the SWRCC as damages. The QPAM subsequently sent another bill demanding an additional \$627,999.58 for rent overcharges and interest during 2013. McCarron caused the SWRCC to pay that amount as well. The latter payment was never approved by the SWRCC's Executive Committee or presented to the SWRCC's trustees for investigation.

Consistent with ERISA, the QPAM has directed the Training Fund to pay no more than fair market rent to lease property from the SWRCC going forward.

During the September 9–12, 2013 hearing, McCarron presented no witnesses

---

<sup>4</sup>McCarron previously had been advised by a subordinate that he could have personal legal liability if the overcharges were not repaid.

or documents that refute the substantial evidence concerning his role in, or responsibility for, the substantial rent overpayments by the Training Fund to the SWRCC. McCarron himself refused to testify.<sup>5</sup> McCarron called witnesses to testify about his good character, but, generally speaking, McCarron's witnesses disclaimed knowledge of the pertinent leases, rents, and related issues.<sup>6</sup>

McCarron asserted at the hearing that the UBC's Director of Real Estate had decided the rent amounts. McCarron declined to make that assertion under oath, however, and he presented no evidence to support it. In sworn testimony that the Trial Committee found credible, the Director of Real Estate denied playing the role attributed to him by McCarron. The Director of Real Estate's testimony was corroborated by other sworn testimony and documents concerning McCarron's personal involvement in deciding the rents.

McCarron further asserted that he had delegated to subordinates all decision-making and oversight in connection with the leases. Again, McCarron's unsworn assertion was refuted by the direct evidence (addressed above) concerning McCarron's personal role in those matters. It was further refuted by credible evidence presented to the Trial Committee that McCarron oversaw SWRCC business closely, that he was a detail-oriented and controlling manager, and that he tended to make important decisions unilaterally for the SWRCC (and, in some cases, for other entities for which he was not authorized to act). For example, to set his own SWRCC salary without Executive Committee or other approval, to exempt himself (effectively) from SWRCC's expense and receipt policy, to replace the Training Fund's attorneys, to gather information surreptitiously from those attorneys' offices, to withhold information from his fellow Training Fund trustees, to monitor the movements of

---

<sup>5</sup> The Trial Committee was troubled by the refusal of McCarron to testify under oath, especially after his trial representative said he would testify. However, the Trial Committee did not reach its decisions based on his refusal. The Trial Committee would reach the decisions set forth herein even without any adverse inference that could be drawn from McCarron's unwillingness to testify.

<sup>6</sup> McCarron objected to the use of MVD Exhibit 70—a September 11, 2013 letter concerning a scheduled supervision hearing—to cross-examine two witnesses that McCarron called to testify about his good character. By affirmatively eliciting the witnesses' testimony that he was of good character, McCarron placed at issue the extent of the witnesses' knowledge of his activities. We therefore believe it was appropriate to use MVD Exhibit 70 to rebut the implication that the witnesses were sufficiently knowledgeable of McCarron's activities to testify that his character would have prevented him from engaging in the conduct described in the charging document. The accuracy of the statements in MVD Exhibit 70 were not before the Trial Committee, we put no weight on them, and they played no role in our decision. In view of the extensive evidence presented, the Trial Committee would have reached the decision herein regardless of that document.

perceived enemies (who do not work for the SWRCC) through the 533 South Fremont Avenue building in Los Angeles using electronic keycard readers, to access personnel files of perceived enemies, and to forgive contractor delinquencies without informing the SWRCC's Delinquency Committee.<sup>7</sup>

At the hearing, McCarron asserted that his handling of the SWRCC-Training Fund leases was consistent with his predecessors' "past practice." The first witness called by McCarron, however, testified to the contrary. The witness—a longtime Training Fund trustee—testified that the past practice had been to set rent amounts according to appraised values. He testified that he had assumed (wrongly) that the past practice of obtaining appraisals had continued to be followed. In any event, McCarron offered no evidence to suggest that his conduct was consistent with any "past practice" by his predecessors in the 1990s. He offered no evidence to suggest that his SWRCC predecessors had "reverse-engineered" the rent for Training Fund leases, had used the Training Fund's confidential budget to determine the rent, had personally decided to charge the Training Fund as much rent as it could afford, had decided rents without independent appraisals, or had permitted leases to expire and go "month-to-month" with escalation clauses in similar circumstances.

McCarron's representative asserted at the hearing that McCarron had not acted willfully, that there had been "oversight and sloppiness," and that "Mike McCarron does not possess the requisite understanding of ERISA rules and regulations as they pertain to lease agreements between the Council and the Fund." The assertions that McCarron's actions were merely careless are not credible and have no support in the record. Nor did McCarron testify to support his representative's assertion that he was merely careless in his actions with respect to the leases and rents charged. Therefore, we conclude that McCarron's actions in overcharging the Training Trust were willful with knowledge of their impropriety.

After being served with the charges in this proceeding in early July 2013, McCarron attempted to influence the testimony of a witness through implicit threats and physical intimidation, according to two witnesses with knowledge of the incident. McCarron was assisted in that effort by a companion who, rightly or wrongly, is reputed to have connections to the "MS-13" street gang.<sup>8</sup> The witness testified that

---

<sup>7</sup> The Trial Committee did not consider this evidence to find McCarron guilty of the charges asserted. Rather, this evidence is mentioned because it rebuts McCarron's argument at the hearing that he delegated decision-making to others.

<sup>8</sup> Like certain other facts recounted here, this evidence was not considered by the Trial Committee to find McCarron guilty of the charges.



he felt compelled to take a number of unusual steps to protect himself and his family. McCarron boasted to a colleague that the witness, after receiving an unexpected visit from McCarron and his companion, “seemed very scared.” The record reflects multiple instances of McCarron in recent months threatening physical violence toward perceived enemies, or bragging that he has caused others to fear for their physical safety.<sup>9</sup>

McCarron argued that “the Training Fund’s attorneys should have been ensuring that all ERISA requirements were met.” We find it ironic that McCarron would argue that the Training Fund’s attorneys had a duty to protect the Training Fund *from McCarron*. In any event, two longtime Training Fund trustees (including one whom McCarron called as a witness) testified that the Training Fund’s attorneys were never engaged to evaluate the leases’ compliance with ERISA.

Finally, McCarron contends that these charges were motivated by an unexplained personal dispute between himself and the UBC’s General President. We were presented with no persuasive evidence, however, that supports this contention. To the contrary, the charges have been amply proven by the evidence.<sup>10</sup>

In sum, the Trial Committee concludes that, as asserted in the charging document, McCarron used “General Funds or property of a . . . Council . . . for . . . purposes” not “specified in the Constitution and Laws of the United Brotherhood [or] required to transact and properly conduct its business,” UBC Const. § 54(A); “[m]isappropriated the funds of any subordinate body, or any moneys entrusted to [McCarron] . . . by a member . . . for the account of any subordinate body,” *id.* § 51(A)(4); “[d]efraud[ed][a] subordinate body,” *id.* § 51(A)(6); and violated the Obligation by committing each of the foregoing violations, *id.* § 51(A)(12).<sup>11</sup> The

---

<sup>9</sup> McCarron suggested that an attempt had been made to intimidate one of his character witnesses, a former UBC employee who has been retired since 2008. The so-called “intimidation” was a statement by the witness’s friend (with whom the witness “go[es] to Dodgers games”) that the witness’s “credibility” would suffer if he testified that Mike McCarron was of good character. The speaker was not involved in these 14(D) proceedings. The witness was never made to feel physically intimidated.

<sup>10</sup> The Trial Committee is satisfied, after reviewing the evidence, that the foregoing facts are true and correct. The Trial Committee’s decision, however, does not depend on all of the foregoing facts, which as indicated above, includes evidence that was not considered for the purpose of determining McCarron’s guilt or innocence. This was not a close case. The evidence of McCarron’s guilt was more than ample.

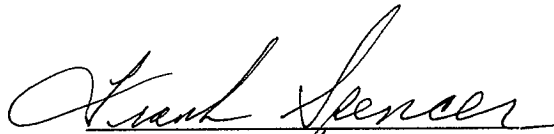
<sup>11</sup> The charging document asserts that the pertinent leases between the SWRCC and Training Fund were prohibited transactions under ERISA. The Trial Committee was presented with testimony and

evidence supporting any one of these conclusions is more than sufficient to find McCarron guilty, and we so find.

WHEREFORE, upon consideration of the evidence submitted, including the testimony and exhibits, we, the Trial Committee, unanimously find Mike McCarron guilty as charged. Pursuant to our authority under Section 14(D) of the UBC Constitution, we impose the following penalties: for violation of Section 51(A)(4), the penalty of expulsion from membership in the United Brotherhood of Carpenters and Joiners of America; for violation of Section 51(A)(6), the penalty of expulsion from membership in the United Brotherhood of Carpenters and Joiners of America; and for violation of Section 51(A)(12) through each of the other constitutional violations, the penalty of expulsion from membership in the United Brotherhood of Carpenters and Joiners of America.

September ~~27~~, 2013.

For the Trial Committee



Frank Spencer, Chairman  
District Vice President,  
Eastern District

Dave Tharp  
District Vice President,  
Midwestern District

James Smith  
District Vice President,  
Canadian District

---

documents that substantiated this assertion. The Trial Committee's conclusions do not depend, however, on a finding that these leases violated ERISA. Rather, the Trial Committee concludes that McCarron's conduct violated the letter and spirit of multiple provisions of the UBC Constitution.