



November 29, 2018

[REDACTED]

Dear [REDACTED]

This Statement of Reasons is in response to your complaint, received by the United States Department of Labor (Department) on September 5, 2018. The complaint alleged that violations of Title IV of the Labor-Management Reporting and Disclosure Act of 1959, ("LMRDA" or "Act"), occurred in connection with the election of officers conducted by Plumbers Local 412 ("Local 412" or "union") on June 20, 2018.

The Department conducted an investigation of your allegations. As a result of the investigation, the Department has concluded, with respect to each of your allegations, that there were no violations of the LMRDA that may have affected the outcome of the election.

You alleged that Local 412 did not adhere to its bylaws when it failed to give members 15-day notice prior to taking a vote to file a request with the General President to conduct the election by mail ballot. As part of this allegation, you assert that this may have affected the outcome of the election because there would have been greater voter participation if members had received the 15-day notice. Section 401(e) of the LMRDA requires that unions conduct elections in accordance with their constitution and bylaws insofar as they are not inconsistent with the LMRDA. Section 11.2 of Local 412's bylaws states that "The membership shall be notified at least fifteen (15) days prior to any vote being taken to file a request with the General President for mail balloting."

The Department's investigation revealed that during Local 412's March 9, 2018 membership meeting, a motion was made and passed to request the International Union's permission to hold the election by mail ballot. Further, during the course of its investigation, all members interviewed with direct knowledge of the March 9, 2018 meeting (except you and one other candidate) stated that they recalled discussions about conducting a mail ballot election prior to the vote to seek permission to hold a

mail ballot election. The Department's investigation also found that meeting minutes from Local 412's December 8, 2017 membership meeting included a discussion of the upcoming officer election, but did not provide specific details of this discussion. Notably, Local 412 has held elections by mail ballot since the 1980s, making the decision to conduct the June 20 election by mail ballot consistent with the union's past practices. To the extent that Plumbers Local 412 failed to enforce its own bylaw containing the 15-day notice requirement, the local's disregard for the rule did not constitute a violation of the LMRDA and there was no effect on the outcome of the election. Accordingly, there was no violation of the Act.

You also alleged that ineligible members were permitted to vote. Specifically, you alleged Local 412 violated its bylaws by sending ballots to members who held financial/business interests in the plumbing and pipe fitting industry and allowed these individuals to vote in the June 20, 2018 election. The members you identified were: (1) [REDACTED]. As part of this allegation, you asserted that the election committee did not properly inspect the eligibility list because they were appointed too close to the election period, leaving insufficient time to review the eligibility list. You stated that in the past, Local 412 identified members with a financial/business interest based on whether those members held an MM98 contractor's license, deeming these members ineligible to vote.

Section 401(e) of the LMRDA provides that every member in good standing is entitled to one vote and that those votes must be counted. However, the right to vote may be qualified by the union's uniform application of reasonable rules and regulations. In this case, section 161(a) of the Plumbers International Constitution and section 9.2 of Local 412's bylaws provide that any member who has entered into a business that is directly connected with the plumbing and pipe fitting industry and maintains union membership does not have the right to vote in union officer elections. If a member terminates their business and/or financial interest, they must wait six months from the termination to be eligible to vote. According to the International Union, it is the local's responsibility to use a "facts and circumstances" test to identify members who hold such financial and/or business interests and are thus ineligible to vote in officer elections.

With respect to your assertion that the election committee failed to properly inspect the eligibility list, Local 412 concluded, and the Department agrees, that holding an MM98 contractor's license alone does not establish that a member has a financial/business interest in the plumbing and pipefitting industry that would render them ineligible to vote in the officer election. Accordingly, this element of your protest does not constitute any violation of the LMRDA.

Regarding your broader assertion that ineligible members voted in the officer election, the International Union conducted its own investigation and found that in addition to the four individuals you identified, ██████████, a member deemed ineligible under section 161(a) of the International Constitution, also inappropriately received an election ballot, bringing the number to five. The Department's investigation confirmed the International Union's conclusion that of these five individuals, three voted during the election: ██████████. Specifically, the investigation revealed that both of the Enoch brothers held a financial interest in the plumbing and pipe fitting industry and voted. Local 412 had two members named ██████████ – father and son. The investigation established that ██████████, ██████████ had an outside financial interest in the plumbing and pipefitting industry, but he did not vote in the election. However, his son, ██████████ works as the superintendent for his father's company, and did vote. It is unclear whether ██████████ was eligible to vote under section 161(a). The remaining two members you identified, ██████████, were also ineligible to vote under the International Union's Constitution because they each held outside financial interests in the plumbing and pipefitting industry. However, the investigation showed that neither member voted in the election.

Notably, the Department's investigation into your allegation that ineligible members voted went beyond the scope of the International Union's investigation. Relying upon section 195(c) of the International Constitution, which states that "[a]ny member who enters into business for himself, or holds financial interest in any business that comes within the union's work jurisdiction, must sign a collective bargaining agreement with the local in whose jurisdiction the work will be performed," the Department identified sixteen members on the eligibility list who had a business interest in a company in the plumbing or pipefitting industry. Of these sixteen members, deemed ineligible under the union's constitution, eight cast votes in the June 20, 2018 election: ██████████ [previously identified], ██████████ [previously identified], ██████████ (4) ██████████ (5) ██████████, (6) ██████████, (7) ██████████, and (8) ██████████. While this constituted a violation, the LMRDA provides that an election will not be overturned unless a violation may have affected the outcome of the election. Here, the effect of the violation was eight votes, which could not have affected the smallest vote margin of the election, which was 30. Even if ██████████ was deemed ineligible to vote, his vote would bring the total effect to nine – still below the smallest vote margin. Therefore, there was no violation of the LMRDA that may have affected the outcome of the election.

You also made several allegations that, even if true, would not constitute violations of Title IV of the LMRDA and were therefore not investigated.

For the reasons set forth above, the Department has concluded that there were no violations of the LMRDA that may have affected the outcome of the election. Accordingly, the office has closed the file on this matter.

Sincerely,



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Chief, Division of Enforcement

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