



Statement of Reasons for Dismissing a Complaint
Alleging the Plasterers and Cement Masons International Association
Improperly Imposed a Trusteeship on its Subordinate, Local 300

This Statement of Reasons is in response to a June 2, 2021 complaint filed with the U.S. Department of Labor (the Department). The complaint alleged that the trusteeship imposed by the Plasterers and Cement Masons International Association (International) upon Local 300 violated Title III of the Labor-Management Reporting and Disclosure Act of 1959 (the Act or LMRDA), 29 U.S.C. §§ 461-66. Specifically, the complaint alleged that the trusteeship was improperly imposed because the International: 1) failed to notify the membership of imposition of the trusteeship and hearing via mail at least 15 days prior to the hearing and 2) failed to establish that the trusteeship was warranted. For the following reasons, the complaint is dismissed.

Section 302 of the LMRDA allows trusteeships for the purpose of “correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements or other duties of a bargaining representative, restoring democratic procedures, or otherwise carrying out the legitimate objects of such labor organization.” 29 U.S.C. § 462. A trusteeship established by a parent body for a valid purpose, in conformity with the procedural requirements of its constitution and bylaws, is presumed valid for eighteen months from the date of its establishment and is not subject to attack during such period except by clear and convincing proof that the trusteeship was not established or maintained in good faith for a purpose allowable under Section 302 of the LMRDA. 29 U.S.C. § 464(c).

The Department’s investigation determined that the trusteeship was imposed for an allowable purpose. In the “Form LM-15 Trusteeship Report” filed for Local 300 on January 5, 2021, the International stated that it placed Local 300 under trusteeship to correct financial malpractice. Further, during the investigation, the International explained that embezzlement need not occur to justify the need to place a local union under trusteeship – financial malpractice or malfeasance is sufficient. The International identified the following issues with Local 300 that warranted the trusteeship: 1) an International financial audit revealed that Local 300 had purchased nine Tesla vehicles, and when officers were directed to return vehicles they failed to do so, 2) the International found that Local 300 meeting minutes relating to the transfer of money to the local’s building corporation fund had been altered, such that there was a lack of transparency and financial reporting to the Executive Board regarding the building corporation, 3) the International found that the local lacked sufficient oversight and control of the building corporation fund, resulting in checks being written from the

building corporation fund without any co-signature, and 4) the International determined that Local 300 failed to pay its debts to the Contra Costa Building Trades Council (CCBTC), which nearly resulted in loss of work for Local 300 members. Collectively, the International concluded that there was a clear threat to the financial well-being of Local 300 necessitating imposition of a trusteeship.

The Department's investigation also determined that the trusteeship was imposed in accordance with the International's Constitution. Specifically, Article 13, Section 1(a) of the International Constitution requires notice of the trusteeship charges, hearing, and appointment of a hearing officer be served on the union officers at least 10 days prior to the hearing. This hearing shall serve to determine whether a trusteeship is warranted. Article 13, Section 2(a) allows the International President to appoint a trustee prior to the hearing in cases where the International determines an emergency exists, but in such cases, the hearing must be held within 30 days. In this case, the International placed Local 300 in an emergency trusteeship on November 23, 2020. And on December 4, 2020, the International served the local union officers with notice via UPS that a hearing to determine whether to impose a trusteeship would be held on December 17, 2020. During the investigation, the trustee appointed pursuant to Article 13, Section 2(a) stated that he posted notice of the hearing at the Local 300 union office and on its website. Further, while the complaints alleged that the International violated the 15-day notice requirement for "special called meetings" in Local 300's bylaws, the Department's investigation determined that these requirements did not apply to trusteeship hearings established by the International. Thus, the International complied with the timelines set forth in the union's governing documents.

Finally, the Department's investigation determined that the trusteeship was imposed after a fair hearing. Due to the COVID pandemic, the trusteeship hearing was conducted via Zoom. During the investigation, Local 300 officers confirmed that they were afforded an opportunity to present evidence and supporting witnesses in opposition to the International's claims that a trusteeship was warranted. The hearing officer also confirmed that all parties were permitted to present evidence and witnesses, as well as cross-examine witnesses and evidence. All exhibits relied upon during the hearing were presented to all those attending the Zoom hearing. Following the hearing, a report was prepared for the International President recommending continuation of the trusteeship. By letter dated January 11, 2021, the International President notified former Local 300 officers that the trusteeship would be imposed.

Accordingly, the trusteeship of Local 300 was imposed for an allowable purpose, in accordance with the International Constitution, and ratified after a fair hearing. As such, it is presumed valid for 18 months from its imposition.

For the reasons stated above, the International did not violate the LMRDA when placed Local 300 under trusteeship. This matter does not require further action on the part of the Department and we are closing our file.



September 8, 2022

[REDACTED]

Dear [REDACTED]:

This is to advise you of the disposition of your complaint filed with the Secretary of Labor alleging that violations of Title III of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred with respect to the imposition of a trusteeship by Operative Plasterers' and Cement Masons' International Association (OPCMIA) over OPCMIA Local 300 in Oakland, California.

Pursuant to Sections 340 and 601 of the LMRDA, an investigation was conducted by the Office of Labor-Management Standards. After carefully reviewing the investigative findings, and after consulting with the Solicitor of Labor, we have determined that legal action is not warranted in this case. We are therefore, closing our file as of this date. The basis for this decision is set forth in the enclosed Statement of Reasons.

Sincerely,

[REDACTED]

Tracy L. Shanker
Chief, Division of Enforcement

Enclosure

cc: [REDACTED], Associate Solicitor
Civil Rights and Labor-Management Division



September 8, 2022

[Redacted]

Dear [Redacted]:

This is to advise you of the disposition of your complaint filed with the Secretary of Labor alleging that violations of Title III of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred with respect to the imposition of a trusteeship by Operative Plasterers' and Cement Masons' International Association (OPCMIA) over OPCMIA Local 300 in Oakland, California.

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Sincerely,

[Redacted Signature]

Tracy L. Shanker
Chief, Division of Enforcement

Enclosure

cc: [Redacted], Associate Solicitor
Civil Rights and Labor-Management Division



September 8, 2022

[Redacted]

Dear [Redacted]:

This is to advise you of the disposition of your complaint filed with the Secretary of Labor alleging that violations of Title III of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred with respect to the imposition of a trusteeship by Operative Plasterers' and Cement Masons' International Association (OPCMIA) over OPCMIA Local 300 in Oakland, California.

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Sincerely,

[Redacted Signature]

Tracy L. Shanker
Chief, Division of Enforcement

Enclosure

cc: [Redacted], Associate Solicitor
Civil Rights and Labor-Management Division



September 8, 2022

[Redacted]

Dear [Redacted]:

This is to advise you of the disposition of your complaint filed with the Secretary of Labor alleging that violations of Title III of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred with respect to the imposition of a trusteeship by Operative Plasterers' and Cement Masons' International Association (OPCMIA) over OPCMIA Local 300 in Oakland, California.

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Sincerely,

[Redacted Signature]

Tracy L. Shanker
Chief, Division of Enforcement

Enclosure

cc: [Redacted], Associate Solicitor
Civil Rights and Labor-Management Division

U.S. Department of Labor

Office of Labor-Management Standards
Suite N-5119
200 Constitution Ave., NW
Washington, D.C. 20210
(202) 693-0143



September 8, 2022

Daniel E. Stepano, General President
Operative Plasterers' and Cement Masons' International Association

[Redacted]

Dear President Stepano:

This is to advise you of the disposition of four complaints filed with the Secretary of Labor alleging that violations of Title III of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), occurred with respect to the imposition of a trusteeship by Operative Plasterers' and Cement Masons' International Association (OPCMIA) over OPCMIA Local 300 in Oakland, California.

Pursuant to Sections 340 and 601 of the LMRDA, an investigation was conducted by the Office of Labor-Management Standards. After carefully reviewing the investigative findings, and after consulting with the Solicitor of Labor, we have determined that legal action is not warranted in these cases. We are therefore, closing our files as of this date. The basis for this decision is set forth in the enclosed Statements of Reasons.

Sincerely,

[Redacted]

Tracy L. Shanker
Chief, Division of Enforcement

Enclosure

cc: [Redacted], Associate Solicitor
Civil Rights and Labor-Management Division

Chester Murphy, Trustee
Plasterers and Cement Masons Local 300
100 Hegenberger Road
Oakland, CA 94621