

Statement of Reasons for Dismissing a Complaint  
Alleging that the Operative Plasterers' & Cement Masons' International Association  
Improperly Imposed a Trusteeship over Local 630 in Honolulu, HI

The Department of Labor, Office of Labor Management Standards (Department), received a complaint on January 22, 2016, from a member in good standing of Local 630 of the Operative Plasterers' & Cement Masons' International Association (OPCMIA). The complaint alleged that there was no legitimate basis for the trusteeship imposed upon Local 630 by the International union and that it is a sham in violation of Title III of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), 29 U.S.C. §§ 461-466 and 29 C.F.R. § 458.26.

The Department conducted an investigation. Upon careful review of the investigative findings, we have determined that legal action is not warranted in this case. For the following reasons, the complaint is dismissed.

The LMRDA permits a parent labor organization to impose a trusteeship on a subordinate body for the purpose of correcting corruption or financial malpractice, assuring the performance of negotiated agreements or other duties of a representative of employees, restoring democratic procedures, or otherwise carrying out the legitimate objects of the union. 29 U.S.C. § 462. A trusteeship established by a parent body in conformity with the procedural requirements of its constitution and bylaws and authorized or ratified after a fair hearing is presumed valid for eighteen months from the date of its establishment and is not subject to attack during this 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).

OPCMIA asserted that it imposed the trusteeship on December 9, 2015, because the actions of certain officers and members undermined its ability to assure the performance of its collective bargaining agreement (CBA). The Department's investigation disclosed that, during the months leading up to imposition of the trusteeship, the executive board became divided with respect to implementing its recently-negotiated and ratified CBA. In particular, following the ratification of the CBA by the membership, some members who were also members of Local 1 of the International Union of Bricklayers and Allied Craftworkers (Local 1) became aware that the CBA contained language that they perceived to be detrimental to Local 1. Some executive board members did not want to implement the CBA because of this language. The facts are inconclusive regarding how or when this text was introduced or why the executive board or the members failed to notice it. The investigation also revealed that the disagreement over implementation of the CBA led to charges against a number of executive board members; their scheduled trial was subsequently suspended due to conflict among the executive board officers concerning correct procedures for conducting the trial, further exacerbating the divisions among the executive board members. Thus, the investigation showed that the continued disagreement

among the executive board was undermining Local 630's ability to assure the performance of its CBA, which is an allowable purpose for imposing a trusteeship under the LMRDA.

Article 13 of the OPCMIA constitution contains the procedural requirements that the union must follow to properly establish a trusteeship. Section 2(A) of this article authorizes the general president to impose a trusteeship immediately if he determines that an emergency exists; in such case, a hearing to determine whether the trusteeship should continue must be held within thirty days. According to section 1(B), prior to the hearing, a copy of the charges stating the grounds for the trusteeship, together with a notice stating the time, place and date of the hearing, including the name of the hearing officer, must be served on the financial secretary, president, or business agent of the local union at least ten calendar days prior to the hearing. Under section 1(C), the hearing officer must make his recommendation to the general president within thirty days. Section 2(A) requires the international to make a decision on whether to continue the trusteeship within sixty days after the imposition of the trusteeship.

The Department's investigation disclosed that OPCMIA imposed an emergency trusteeship over Local 630 on December 9, 2015, by letter, stating that an emergency trusteeship was necessary for several purposes, including the purpose of ensuring the performance of collective bargaining agreements or other duties of a bargaining representative. The hearing was scheduled for January 5, 2016, within the thirty-day required period. On December 15, 2015, OPCMIA sent a notice to the local's membership notifying them of the time, place, and date of the hearing and that it would be open to all members in good standing. At the hearing, the evidence was presented by the trustee and Local 630 members and officers were afforded the opportunity to and did present evidence, ask questions, and make statements. On January 19, 2016, fourteen days after the hearing, the hearing officer submitted his report and recommendation to the OPCMIA general president that the trusteeship be continued. On February 4, 2016, the general president issued his decision to continue the trusteeship, which occurred within sixty days of the imposition of the trusteeship as required by Article 13, section 2(A).

Accordingly, the trusteeship was imposed in accordance with the constitution and by-laws for an allowable purpose and was ratified after a fair hearing. The trusteeship, therefore, is presumed valid during the 18-month period between December 9, 2015, and June 8, 2017.

For the reasons set forth above, the Department has concluded that there was no violation of Title III of the LMRDA and is closing its file on this matter.

**U.S. Department of Labor**

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May 9, 2017

Mr. Daniel E. Stepano  
General President, OPCMIA  
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Columbia, MD 21046

Mr. Peter Iriarte, Business Manager  
OPCMIA, Local 630  
2251 North School Street  
Honolulu, HI 96819

Dear Messrs. Stepano and Iriarte:

This is to advise you of the disposition of a complaint filed with the Secretary of Labor alleging that violations of Title III of the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA), occurred with respect to the trusteeship imposed by the International Union, Operative Plasterers' and Cement Masons' International Association (OPCMIA), over Local 630 in Honolulu, Hawaii.

Pursuant to Sections 304 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 Office of the Solicitor, Division for Civil Rights and Labor-Management, a decision has been made that those findings do not provide a basis for action by the Department.

A statement of reasons setting forth the basis for this decision is enclosed.

Sincerely,

Sharon Hanley  
Chief, Division of Enforcement