

Statement of Reasons
For Dismissing a Complaint
Alleging the Improper Imposition of a Trusteeship
On Amalgamated Transit Union Local 1764

A member in good standing of Local 1764 of the Amalgamated Transit Union (ATU) filed a complaint on July 23, 2019, with the Secretary of Labor challenging the validity of the trusteeship imposed on the local by ATU. The complainant alleged that the trusteeship was not imposed for an allowable purpose and that it was not established in conformity with the procedural requirements of ATU's Constitution and General Laws in violation of Title III of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. § 461-66. The complaint is dismissed for the reasons explained below.

A trusteeship that is established by a parent body in conformity with the procedural requirements of its constitution and bylaws, and that is authorized or ratified after a fair hearing, is presumed valid for eighteen months from the date of its establishment. 29 U.S.C. § 464(c). Such a trusteeship is not subject to attack during that eighteen-month 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. *Id.* The LMRDA allows trusteeships for the purposes of: 1) correcting corruption or financial malpractice; 2) assuring the performance of collective bargaining agreements or other duties of a bargaining representative; 3) restoring democratic procedures; or 4) otherwise carrying out the legitimate objects of such labor organization. 29 U.S.C. § 462.

The Department's investigation established that ATU International imposed the trusteeship over Local 1764 for at least two allowable purposes. The General Executive Board's (GEB) reasons for instituting the temporary trusteeship included Local 1764's failure to adequately prepare for upcoming collective bargaining negotiations and its improper cancellation of membership meetings. At the time the trusteeship was imposed, Local 1764 had six collective bargaining agreements that were due to expire in 2019, and had not taken sufficient steps to prepare for bargaining. For example, the only step that Local 1764 had taken to prepare for bargaining with one employer was to distribute a survey to members. In addition, Local 1764 cancelled membership meetings in April, May, and August of 2018 without the approval of the International President, even though the ATU Constitution requires that local membership meetings be held monthly, and also specifies that approval from the International President is needed in order to cancel a meeting. Under these circumstances, ATU allowably imposed a trusteeship for the purposes of assuring the performance of Local 1764's duties as a collective bargaining representative and restoring Local 1764's democratic procedures.

The Department's investigation also determined that the trusteeship was imposed in accordance with the ATU Constitution and authorized after a fair hearing. Section 12.6 of the ATU Constitution provides, in relevant part:

"Whenever in the judgment of the GEB [the imposition of a trusteeship] is required, it shall have the power to instruct the IP to place such [Local Union] . . . in temporary trusteeship . . . Within thirty (30) days following the imposition of a temporary trusteeship, a hearing shall commence to determine whether the trusteeship is justified and shall continue . . . The hearing officer shall submit his or her findings and recommendations to the GEB . . . Within forty-five (45) days from the date the hearing closes, the GEB shall issue its decision and order. Such decision and order shall be sent to the subordinate body and made available to its members."

On January 23, 2019, the International President placed Local 1764 in a temporary trusteeship pursuant to his authority under Section 12.6 of the ATU Constitution. On January 30, 2019, ATU sent a letter to Local 1764's suspended officers advising of the reasons for the temporary trusteeship and the date, time, and location of the trusteeship hearing. The letter was also posted at properties employing Local 1764 members. On February 21, 2019, less than 30 days later, a hearing was held. On March 27, 2019, the ATU Hearing Examiner issued his Findings and Determinations, recommending that the trusteeship continue, and, on March 29, 2019, within 45 days of the hearing, the GEB issued its decision to continue the trusteeship. These procedures were in keeping with the ATU Constitution and the requirements of the LMRDA.

Also in accordance with Section 12.6 of the ATU Constitution, ATU notified the subordinate body of the GEB Decision and Order to continue the trusteeship. On April 3, 2019, notices were posted at Local 1764 worksites advising Local 1764 members of the GEB Decision and Order to continue the trusteeship. The complainant, while acknowledging that the April 3, 2019 notice of the GEB's decision had been posted at Local 1764 worksites, suggested that the notice may not have been posted at *his* worksite. ATU maintains that it posted notices at all Local 1764 worksites. ATU further advised that a worksite may have multiple garages, and it is possible a notice was not posted at each garage on a worksite property. The complainant does not dispute that he was aware on April 3, 2019, of the GEB's decision to continue the trusteeship.

Finally, the complainant maintains that ATU failed to properly "[send the GEB Decision] to the subordinate body," as required by Section 12.6 of the ATU Constitution, because former officers were not mailed a copy of the GEB's Decision and Order, and further, members did not receive a copy after requesting it. The ATU Constitution does not require that ATU directly send the GEB Decision and Order to local union members. The ATU Constitution only requires that the GEB's "decision and

order shall be sent to the subordinate body and made available to its members.” The April 3, 2019 notice informed Local 1764 members that, “arrangements to review and examine a copy of the Decision and Order of the General Executive Board can be made by contacting [Stanley Smalls, who was then the appointed trustee]. ATU, therefore, sent the GEB Decision and Order to the subordinate body in a timely manner and offered to make it available to members through the trustee.

For the reasons stated above, there was no violation of the LMRDA in the imposition of the trusteeship. Accordingly, this matter does not require further action on the part of the Department and we are closing our file.

U.S. Department of Labor

Office of Labor-Management Standards
Division of Enforcement
Washington, DC 20210
(202) 693-0143 Fax: (202) 693-1343



April 17, 2020

John A. Costa, International President
Amalgamated Transit Union
10000 New Hampshire Avenue
Silver Spring, Maryland 20903

Dear Mr. Costa:

This is to advise you of the disposition of a complaint filed with the Secretary of Labor alleging that violations of Section 302 of the Labor-Management Reporting and Disclosure Act (LMRDA) occurred with respect to the imposition of a trusteeship by the Amalgamated Transit Union over its affiliate Local 1764, located in Silver Spring, Maryland.

Pursuant to Sections 304 and 601 of the LMRDA, the Office of Labor-Management Standards conducted an investigation. After carefully reviewing the investigative findings and 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,



Brian A. Pifer
Chief, Division of Enforcement

Enclosure

cc: Javier M. Perez, Jr., Trustee
ATU Local 1764
10000 New Hampshire Avenue
Silver Spring, Maryland 20903

Beverly Dankowitz, Associate Solicitor
Division of Civil Rights and Labor-Management

U.S. Department of Labor

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April 17, 2020

[REDACTED]

Dear [REDACTED]

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Sincerely,

[REDACTED]

Brian A. Pifer
Chief, Division of Enforcement

Enclosure

cc: Beverly Dankowitz, Associate Solicitor
Division of Civil Rights and Labor-Management