

Statement of Reasons  
for Dismissing a Complaint Alleging  
the Improper Imposition of a Trusteeship upon  
Local 385 by the International Brotherhood of Teamsters

This Statement of Reasons is in response to a complaint filed with the United States Department of Labor (Department) on August 27, 2019. The complaint alleges that the trusteeship imposed by the International Brotherhood of Teamsters (IBT or International) upon Local 385 failed to meet the standards prescribed in the trusteeship provisions of the Labor Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. §§ 461-66. The complaint further alleges that the reasons for the imposition of the trusteeship are arbitrary and capricious. For the following reasons, the complaint is dismissed.

The LMRDA provides that a parent labor organization may impose a trusteeship on a subordinate body for an allowable purpose, including to assure the performance of collective bargaining agreements or other duties of a bargaining representative. 29 U.S.C. § 462. A trusteeship established by a parent body for an allowable purpose, in conformity with the requirements of the parent body's constitution and bylaws, is presumed valid for a period of eighteen months from the date of its establishment. The trusteeship 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).

The Department's investigation determined that the International imposed a trusteeship upon Local 385 for an allowable purpose. In the "Form LM-15 Trusteeship Report" filed with the Department on July 29, 2019, the International explained that the trusteeship was instituted to "assure the performance of collective bargaining agreements or other duties of a bargaining representative." Specifically, the Form LM-15 identified deficiencies concerning a modification to a multi-union service agreement that resulted in the execution of a memorandum of understanding (MOU) signed by a representative of an employer and the president of Local 385 after the service agreement already had been ratified. The MOU permitted the employer to unilaterally transfer work that had been performed by character department bargaining unit employees to employees outside that unit. As a result, the affected bargaining unit employees were given the option of staying in the character department and forfeiting premium pay, or transferring to a position outside the bargaining unit and retaining such pay.

Article XII, Section 2(b) of the International Constitution provides that a supplement to a collective bargaining agreement must first be approved by the master negotiating committee before it is submitted to the affected members for a vote, and that special riders, supplements, or agreements applicable to one or more local unions are separate, and must be submitted to the affected members for a vote. The Local 385 Bylaws, §27(A), provide that before modifying a collective bargaining agreement, the principal

officer must call a meeting at which the membership shall authorize the bargaining demands.

During the Department's investigation, the president of Local 385 admitted to being the only Local 385 representative who negotiated and signed the MOU. He never submitted the MOU to the master negotiating committee for approval or to the affected employees for a vote, in violation of Article XII, Section 2(b) of the International constitution. He also never submitted the bargaining demands to the membership for authorization before modifying the collective bargaining agreement in violation of §27(A) of the local bylaws. On these facts, the International imposed a trusteeship upon Local 385 for an allowable purpose. 29 U.S.C. § 462.

In addition, the Form LM-15 indicates that the IBT General President had received numerous complaints from members that Local 385 was not processing their grievances. During the Department's investigation, the incumbent president of Local 385 stated that currently there is a backlog of approximately 3,000 grievances that are somewhere within the grievance process system. The investigation showed that many grievances processed by Local 385 were rejected by employers because of Local 385's untimely submission of the grievances. Thus, the International imposed a trusteeship upon Local 385 for an allowable purpose. 29 U.S.C. § 462.

The Department's investigation also determined that the trusteeship was imposed in accordance with the requirements of the International Constitution. Specifically, Article VI, Section 5(a) of the constitution states that the IBT General President may appoint a temporary trustee provided that before the appointment of such temporary trustee, he sets a time and place for a hearing for the purpose of determining whether such temporary trustee should be appointed. This provision further provides that the IBT General President must designate a panel to hold a hearing on the trusteeship. The panel must provide a report to him within sixty days of receipt of the hearing transcript. The IBT General President must render a final decision on the imposition of trusteeship within fifteen days of receipt of the report.

By letter dated February 28, 2019, the IBT General President advised the members and officers of Local 385 of his receipt of credible allegations that the local failed to enforce certain collective bargaining agreements and failed to act exclusively in the interests of the membership. Pursuant to the authority vested in the IBT General President by Article VI, Section 5 of the International Constitution, he appointed a three-member panel to conduct a hearing at the local's union hall, on March 30, 2019, to determine the necessity of imposing a trusteeship.

The hearing was conducted on March 30, 2019 as scheduled. After the hearing panel's receipt of the hearing transcript, the hearing panel made a recommendation to the IBT

General President in a report submitted to him. The Department's investigation disclosed that, in a notice dated June 24, 2019, the IBT General President issued a final decision on the imposition of the trusteeship after considering the hearing panel's report and investigating complaints received after the close of the hearing. The June 24, 2019 notice advised the members and officers of Local 385 that the IBT General President had decided to impose a trusteeship over Local 385 and provided the bases for such decision. Thus, the trusteeship was imposed in conformity with the requirements prescribed in the International Constitution.

The Department's investigation further determined that the trusteeship was authorized by the IBT General President after a fair hearing before a hearing panel. Approximately 250 Local 385 members attended the March 30, 2019 hearing. During the hearing members were permitted to provide oral statements or submit written statements and petitions to the panel for the hearing record either supporting the current leadership of Local 385 or endorsing the trusteeship. Several individuals provided oral statements at the hearing opposing a trusteeship, including seven shop stewards and ten members. Members also were permitted to submit written statements to the IBT General President after the hearing closed for his consideration.

Accordingly, the trusteeship was imposed in accordance with the requirements of the International Constitution, for an allowable purpose, and was authorized after a fair hearing. Therefore, the trusteeship will be presumed valid for a period of eighteen from its imposition.

For the reasons stated above, there was no violation of the LMRDA regarding the imposition of the trusteeship. Accordingly, we are closing our file in this matter.

**U.S. Department of Labor**

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



April 7, 2020

[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 the International Brotherhood of Teamsters over Local 385 in Orlando, Florida.

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 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]  
Brian A. Pifer  
Chief, Division of Enforcement

Enclosure

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

**U.S. Department of Labor**

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



April 7, 2020

James P. Hoffa, General President  
International Brotherhood of Teamsters  
25 Louisiana Avenue, NW  
Washington, DC 20001

Dear Mr. Hoffa:

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Sincerely,



Chief, Division of Enforcement

Enclosure

cc: Mike McElmury, Trustee  
Teamsters Local 385  
126 N. Kirkman Road  
Orlando, FL 32811

Beverly Dankowitz, Associate Solicitor for Civil Rights and Labor-Management