

Statement of Reasons for Dismissing a Complaint
Alleging the Metal Trades Department
Improperly Imposed a Trusteeship on its Subordinate,
Tidewater Virginia Federal Employees Metal Trades Council

This Statement of Reasons is in response to a November 30, 2018 complaint filed with the U.S. Department of Labor (the Department). The complaint alleged that the trusteeship imposed on August 15, 2018 by the Metal Trades Department (MTD) upon the Tidewater Virginia Federal Employees Metal Trades Council (TVFEMTC or Council) violated Title III of the Labor-Management Reporting and Disclosure Act of 1959 (the Act or LMRDA), 29 U.S.C. § 462, as made applicable to federal sector unions by the Civil Service Reform Act of 1978 (CSRA), 5 U.S.C. § 7120(d) and 29 C.F.R. §§ 458.26-28. Specifically, the complaint alleged the trusteeship was improperly imposed because the MTD: 1) failed to establish the trusteeship in accordance with the procedures outlined in the MTD's constitution and bylaws; and 2) failed to establish that a trusteeship was necessary to assure the performance of the collective bargaining agreement or other duties of a bargaining representative.

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 established that the MTD imposed the trusteeship for a purpose allowable under the Act. Specifically, the MTD determined that the TVFEMTC failed to assure the performance of collective bargaining agreements or other duties of a bargaining representative as evidenced by its failure to enact an effective internal organizing strategy and plan, by internal dysfunction in the TVFEMTC's Naval Sea Systems (NAVSEA) conference committee, by the failure of the TVFEMTC's Naval Facilities (NAVFAC) conference committee to represent members from its satellite offices, and by the TVFEMTC members' failure to carry out their duties. The investigation confirmed that the MTD imposed an emergency trusteeship to address these issues.

The Department's investigation further determined that the trusteeship was imposed in accordance with the MTD's constitution and bylaws. Article V, Section 13 of the 2016 MTD Constitution and By-Laws states that the MTD's President may, after charges, notice, and a hearing, appoint a trustee to take charge of and control the affairs of a local

or district Metal Trades Council when the President finds such trusteeship is “necessary for the purposes 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 legitimate objectives of such subordinate body.” The President may appoint a trustee prior to a hearing provided that: 1) the President believes “an emergency situation exists within the subordinate body; and 2) a hearing convenes “within two (2) weeks of the imposition of the trusteeship.” The decision of the President appointing a trustee may be appealed to the MTD’s Executive Council. Pending appeal from the President’s decision, the President’s action shall stand and be carried out.

On August 13, 2018, MTD General Representative [REDACTED] notified the TVFEMTC’s membership by letter that he was filing charges against the TVFEMTC and was requesting that MTD [REDACTED] appoint a trustee to take control of the Council. General Representative [REDACTED] stated that he had observed a continuation of internal strife and dysfunction within the Council that prevented elected officers from carrying out their responsibility as bargaining representatives. He believed that an emergency condition existed that warranted the appointment of a trustee prior to a hearing on the charges.

On August 14, 2018, MTD President [REDACTED] notified the Council’s membership by letter – in accordance with Article V, Section 13 of the 2016 MTD Constitution and By-Laws – that he was imposing a temporary emergency trusteeship over the TVFEMTC effective August 15, 2018 with General Representative [REDACTED] as the temporary emergency trustee. As the basis for an emergency trusteeship, [REDACTED] cited: declines in Council membership despite growth in the bargaining unit; dysfunction in the NAVSEA conference committee that contributed to repeated failures in addressing bargaining unit concerns and collective bargaining issues; the consolidation of remote NAVFAC bargaining units that strained that committee’s ability to represent its members; and the failure of TVFEMTC officers to carry out their duties to the membership. [REDACTED] further directed a hearing to be convened on August 29, 2018 with an opportunity for interested parties to provide testimony on the merits, conditions, circumstances, and objections surrounding the charges and the imposition of the emergency trusteeship.

On August 29, 2018, at 10:00 a.m., a hearing was held at the AFL-CIO headquarters in Washington, DC with [REDACTED] director of government employees for the International Association of Machinists (IAM), appointed as Hearing Officer. During the hearing, the charges against the TVFEMTC were read and TVFEMTC members provided oral testimony regarding the merits of the charges. All TVFEMTC members who attended the hearing were given the opportunity to speak for the hearing record. No members stated that they were prevented from speaking at the hearing. After

reviewing the evidence from the hearing, Officer Price recommended that the TVFEMTC be placed under trusteeship.

On September 24, 2018, [REDACTED] issued a decision to maintain the trusteeship over the TVFEMTC based on the trusteeship hearing transcript and Officer Price's recommendation. The MTD's Executive Council did not receive any appeals regarding this decision.

Accordingly, the emergency trusteeship was imposed in accordance with the constitution and by-laws for an allowable purpose and was affirmed after a fair hearing. Therefore, it will be presumed valid for 18 months from its imposition.

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.