

Statement of Reasons for Dismissing a Complaint
Alleging Communication Workers of America
Improperly Imposed a Trusteeship over its Local 9413

The Department of Labor (Department) received a complaint on August 17, 2017, challenging the validity of the trusteeship imposed by the Communication Workers of America (International) over its subordinate body, Local 9413 (local or Local 9413), on June 19, 2017. The Complainant alleged that the trusteeship was not imposed for a purpose allowable under Section 302 of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 29 U.S.C. § 462. The complaint alleged that the International's stated reasons for imposing the June 19, 2017 emergency trusteeship was in fact reprisal against then-Local 9413 President [REDACTED] for filing a lawsuit in federal court against four other then-current officers of Local 9413.

Section 302 of the LMRDA specifies the purposes for which a labor organization may impose a trusteeship over a subordinate: 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. The International need specify only one of these purposes to impose a trusteeship. As long as the trusteeship is imposed in conformity with the International's constitution and bylaws, and is authorized or ratified after a fair hearing, the trusteeship must be presumed valid for eighteen months from the date of its establishment. *See* 29 U.S.C. §§ 462, 464(c).

The Department's investigation confirmed that the International imposed a trusteeship over Local 9413 for an allowable purpose. Specifically, the investigation revealed that the International imposed a temporary trusteeship in response to requests from four Local 9413 officers that the International intercede and assume leadership of the local. They alerted the International that, during the May 19-21, 2017 strike against employer AT&T West, [REDACTED] failed to perform the duties required of local presidents during a strike, including failing to inform the membership or the Local 9413 executive board before and during the strike of critical information concerning the strike and tentative agreement. As a result, the local's "mobilization structure" disintegrated. This breakdown in the local's leadership jeopardized its collective bargaining agreements with various employers; thus the International had sufficient evidence to conclude that the local failed to assure the performance of its collective bargaining agreements. Although any one reason will suffice to conclude that a labor organization had sufficient justification to impose a trusteeship over a subordinate, the investigation here found further incidents of the local's failure to assure performance of its collective bargaining agreements or other duties of a bargaining representative. Based on these findings, the trusteeship was imposed for an allowable purpose under Section 302.

Given that the reason for imposing the trusteeship was valid, the only remaining issue is whether the trusteeship was imposed in conformity with the International Constitution. Article XIII, Section 5 of the International constitution authorizes the

International to revoke or suspend the charter of a local under seven circumstances, including “(g) [r]efusing or neglecting to conform to this Constitution or the policies of the Union as set forth by the Convention.” Under such circumstances, the International Constitution, pursuant to Article XIII, Section 8, authorizes a temporary administration of a local’s affairs and “may appoint a trustee to temporarily conduct the affairs of a Local after receiving a request from the Officers or membership of a Local for such action.” Article XIII, section 8 (a-b). Should any local officer object to the appointment of a temporary trustee, the International President shall give notice in writing of the reasons for the basis of the appointment, but no time is imposed on the International in issuing its reasons. Art. XIII, Section 8(b). The affected local is entitled to a hearing and reasonable notice of the hearing at least ten days before the hearing date. Art. XIII, Section 8(b). The affected local or its officers may be represented by counsel. At the conclusion of the hearing, the hearing officer, appointed by the International, issues a report with recommendations to the International which shall affirm, reverse or modify the appointment of the temporary administrator. The decision of the International Executive Board may be appealed to the next union convention. Art. XIII, Section 8(b)

The Department’s investigation showed that, after receiving the four letters (dated between June 7-11, 2017) from then-current Local 9413 board members requesting a trusteeship, the International imposed a trusteeship on June 19, 2017. By letter dated June 20, 2017, the International appointed [REDACTED], staff representative for District 9, as a temporary administrator, attaching a detailed timeline for administering the trusteeship, including the requirement for a hearing.

The International scheduled a hearing in October 2017. In preparation for that hearing, the International appointed a hearing officer who notified [REDACTED] and all the other former local officers by letter dated June 30, 2017, that a hearing would be held. The hearing notice was mailed to all former officers on August 14, 2017, specifying the date, time and location of the hearing. All former officers were invited to attend and present evidence against the imposition of the trusteeship.

The hearing was held on October 30, 2017, allowing the local well over ten days of notice of the hearing. The Department’s investigation disclosed that only [REDACTED] opposed the trusteeship during the hearing; [REDACTED] availed himself of the opportunity to cross-examine the International’s witnesses, and he presented evidence. However, [REDACTED] voluntarily left the hearing while it was still in progress and never returned.

The hearing officer, after hearing all the evidence, recommended that the trusteeship continue. The International accepted the hearing officer’s recommendation on December 8, 2017. The International provided former Local 9413 president [REDACTED] with notice and a hearing, which he attended and cross-examined witnesses and presented evidence, affording him the due process accorded under section 304.

Because the trusteeship was imposed for a valid reason and the International held a hearing that conformed with its constitution, the trusteeship is presumed valid for eighteen months from the date of its establishment or in this case, December 19, 2018. However, the trusteeship was removed months in advance of the expiration date. The investigation disclosed that on February 15, 2018, the International conducted an election of officers to restore the local's autonomy. Those elected officers were installed on March 28, 2018. The local's autonomy was restored on April 6, 2018, as stated in the International's Terminal Trusteeship Report Form LM-16, dated July 2, 2018.

For the reasons set forth above, the Department has concluded that there was no violation of Title III of the LMRDA, and the complaint is dismissed.



October 8, 2019

[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 Communications Workers of America Local 9314 in Sparks, Nevada.

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
Civil Rights and Labor-Management



October 8, 2019

Christopher M. Shelton, President
Communication Workers of America
501 3rd Street, NW
Washington, DC 20001

Dear Mr. Shelton:

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 Communications Workers of America Local 9314 in Sparks, Nevada.

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Sincerely,

A black rectangular redaction box covering the signature of Brian A. Pifer.

Brian A. Pifer
Chief, Division of Enforcement

Enclosure

cc: Marc Ellis, President
CWA Local 9413
1819 Hymer Avenue
Sparks, NV 89431

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