



July 31, 2009

Mr. John Gage, President
American Federation of Government Employees
80 F Street NW
Washington, DC 20001-1583

Dear Mr. Gage:

The complaint to the Department of Labor protesting the trusteeship of the American Federation of Government Employees Local 900 in St. Louis, Missouri has been investigated pursuant to Sections 304 and 601 of the Labor-Management Reporting and Disclosure Act of 1959.

Following a review of the investigative findings by this office and 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,

Cynthia M. Downing
Chief, Division of Enforcement

Enclosure

cc: Mary Cooper, Trustee
AFGE Local 900
1822 Alfred Avenue
St. Louis, Missouri 63110-2212

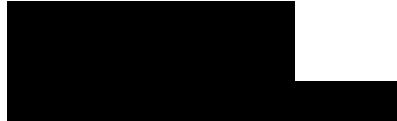
Katherine Bissell, Associate Solicitor for Civil Rights and Labor-Management

U.S. Department of Labor

Employment Standards Administration
Office of Labor-Management Standards
Washington, DC 20210



July 31, 2009



Dear Mr. [REDACTED]:

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Sincerely,

Cynthia M. Downing
Chief, Division of Enforcement

Enclosure

cc: Katherine E. Bissell, Associate Solicitor for Civil Rights and Labor-Management

Statement of Reasons
Dismissing the Complaint Concerning the Trusteeship Imposed on
Local 900, American Federation of Government Employees

A member in good standing of the AFGE Local 900 (“the Local”) filed a complaint with the United States Department of Labor (the “Department”) on April 13, 2009, alleging that the American Federation of Government Employees (“AFGE”) violated Title III of the Labor-Management Reporting and Disclosure Act of 1959 (the “Act”), 29 U.S.C. § 401, et seq., as made applicable to federal sector unions by 29 C.F.R. § 458.26-28 and the Civil Service Reform Act of 1978, 5 U.S.C. § 7120, by unjustifiably imposing a trusteeship upon the Local. For the following reasons, the complaint is dismissed.

Title III of the LMRDA permits parent labor organizations to impose a trusteeship on subordinate bodies 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 the legitimate objects of such labor organization. 29 U.S.C. § 462. A trusteeship established by a parent body 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).

Complainant alleges that AFGE placed Local 900 under trusteeship in bad faith. The Department conducted an investigation of the allegations. As a result of the investigation, the Department has concluded that the trusteeship was established for a purpose allowable under the Act and in accordance with the AFGE’s constitution and bylaws.

The Department’s investigation revealed that the Local did not make any per capita tax payments to AFGE from June 12, 2008 until late November, 2008 due to a dispute regarding the number of members for which the payment was owed. By December 2008, the Local owed AFGE at least \$10,755.00 in per capita tax. This was the Local’s second per capita tax delinquency in one year. (The Local owed AFGE \$20,401.00 as of September 20, 2007 but reduced its debt to \$161.00 by June 2008.) On November 21, 2008, the AFGE National Executive Council approved the establishment of a trusteeship over the Local. The trusteeship was imposed under the AFGE Constitution’s expedited trusteeship procedures (Art. IX, Section 5(b)(4)) on the ground that the Local’s per capita delinquency violated the AFGE Constitution and was a breach of fiduciary duty under the Act, 29 U.S.C. 501(a). Following the initiation of the trusteeship process but prior to the appointment of a trustee, the Local “unwillingly” paid its outstanding per capita tax. The payment was credited to the Local’s account by December 15, 2008.

AFGE National President John Gage appointed a trustee on December 19, 2008 and notified members of the imposition of the trusteeship in a memorandum dated December 22, 2008. A trusteeship hearing was held February 13, 2009, and the hearing panel issued a decision ratifying the trusteeship on March 12, 2009. Gage notified the Local of the hearing panel's decision on April 3, 2009. The Local remains under trusteeship to date.

The evidence establishes that the trusteeship was imposed to correct financial malpractice, i.e. the recurring nonpayment of per capita tax, a legitimate purpose under the Act. *See Donatello v. McKenzie*, 826 F.Supp. 780, 781 (S.D.N.Y. 1993)(failure of local unions to make per capita payments to international union on timely basis was "financial malpractice" warranting imposition of trusteeship under authority of international union's constitution and federal statute); *see also, Nat'l Ass'n of Letter Carriers v. Sombrotto*, 449 F.2d 915, 923 (2d Cir.1971)(only one legally permissible purpose is required for a valid trusteeship). Further, AFGE followed its constitutional procedures for establishing the trusteeship. *See* 29 C.F.R. 458.26. There was no violation of the Act. Accordingly, the Department is closing its file on this matter.