



August 17, 2009



Dear |||||:

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 trusteeship imposed by the Service Employees International Union over an affiliated local union, the United Healthcare Workers -West, in Oakland, California.

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 after consulting with the Solicitor of Labor, we have determined that legal action is not warranted in this case. We are, therefore, closing our files as of this date.

The basis for this decision is set forth in the enclosed Statement of Reasons.

Sincerely,

Patricia Fox  
Acting Chief, Division of Enforcement

Statement of Reasons  
Dismissing Complaints  
Concerning the Imposition of a Trusteeship  
Over United Healthcare Workers – West,  
a Local Union Affiliated with the  
Service Employees International Union  
In Oakland, California

Members in good standing of the United Healthcare Workers - West (“UHW”) filed complaints with the United States Department of Labor (the “Department”) on March 23, 2009 and April 2, 2009, alleging that the Service Employees International Union (“SEIU”) violated Title III of the Labor-Management Reporting and Disclosure Act of 1959 (the “Act”), 29 U.S.C. § 401, et seq., by unjustifiably imposing a trusteeship and an emergency trusteeship upon UHW. For the following reasons, the complaints are 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 18 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).

Complainants allege that SEIU placed UHW under trusteeship in bad faith and placed it under an unlawful emergency trusteeship. 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 SEIU’s constitution and bylaws.

The Department’s investigation revealed that SEIU initiated the trusteeship in August 2008, following an internal investigation that indicated that UHW officials committed financial malpractice and wrongfully converted information on an SEIU database. SEIU timely notified the officers and members of UHW that it would conduct a trusteeship hearing on these issues. The hearing was held September 26 and 27, 2008, and November 11 -15, 2008, before Hearing Officer Ray Marshall. Marshall issued a report and recommendation on January 21, 2009 finding that UHW had engaged in

financial malpractice by, among other things, transferring funds to a nonprofit organization to be used to fund disputes with SEIU and undermined democratic procedures by attempting to nullify decisions reached by SEIU through the democratic process established in its constitution and bylaws. Marshall determined, however, that a trusteeship should only be imposed if UHW failed to meet several remedial conditions within certain deadlines. The SEIU's International Executive Board ("IEB") adopted Marshall's report on January 22, 2009. Subsequently, UHW failed to comply with the conditions set forth in Marshall's report and sent SEIU a letter setting forth additional terms it would require before complying with the order. As a result of UHW's noncompliance, SEIU placed UHW in trusteeship on January 27, 2009 to correct the financial malpractice and restore democratic procedures.

SEIU also imposed an emergency trusteeship on UHW on January 27, 2009 for additional reasons. First, SEIU claimed that UHW failed to comply with an IEB decision to restructure healthcare locals in California, in violation of Article XIV of the SEIU Constitution. Second, SEIU claimed that officers of UHW destabilized the local through decertification and dues deauthorizations. SEIU issued a notice of hearing for the emergency trusteeship on February 17, 2009. The hearing was held on February 26, 2009. None of the former UHW officers attended the hearing. The hearing officer, Marc Earls, found the evidence supported SEIU's reasons for the emergency trusteeship and recommended the continuation of such by letter dated March 23, 2009. On March 26, 2009, the IEB adopted Earls' report. To date the trusteeship remains in place.

Both Marshall and Earls specifically rejected the contention that the trusteeship was imposed in bad faith or to retaliate for the UHW's officers' resistance to restructuring the local. The evidence gathered in the investigation supports those conclusions. The evidence establishes that the imposition of the emergency trusteeship is supported by a purpose consistent with the statutory standards: carrying out a reorganization that was adopted in accordance with the SEIU constitution. Because carrying out the legitimate objects of the union is a valid purpose, it is not necessary for the Department to address the validity of the other reasons relied on by SEIU. *See 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. It is immaterial that the labor union which imposed the trusteeship also may have had an impermissible motive.); *Service Employees Int'l. Union Local 87 v. Service Employees Int'l. Union Local No. 1877*, 230 F.Supp.2d 1099, 1105 (N.D.Cal. 2002) (Parties challenging the lawfulness of a trusteeship must raise a dispute as to each purpose the union has put forward to justify the trusteeship or show that it was not imposed according to proper procedures). Further, SEIU followed its constitutional procedures for establishing the emergency trusteeship. *See 29 C.F.R. 458.26*. There was no violation of the Act. Accordingly, we are closing our file on this matter.