

U.S. Department of Labor

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



February 7, 2013

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Dear Messrs. [REDACTED] [REDACTED] and [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 trusteeship imposed by the American Federation of Musicians (AFM) over AFM Local 16, located in West Orange, New Jersey.

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,

Patricia Fox
Chief, Division of Enforcement

U.S. Department of Labor

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February 7, 2013

Ray Hair, President
American Federation of Musicians
1501 Broadway
Suite 600
New York, NY 10036

Dear Mr. Hair:

This is to advise you of the disposition of a 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 American Federation of Musicians (AFM) over AFM Local 16, located in West Orange, New Jersey.

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Sincerely,

Patricia Fox
Chief, Division of Enforcement

Statement of Reasons
Dismissing the Complaint Concerning
Improper Imposition of Trusteeship on
Local 16, International Federation of Musicians

The Department of Labor received a complaint alleging that the American Federation of Musicians (AFM) imposed a trusteeship on its subordinate local, Local 16, in violation of Title III of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) 29 U.S.C. §§461-466.

The LMRDA provides certain standards for establishing trusteeships. Section 302, 29 U.S.C. § 462, provides that trusteeships shall be established and administered by a labor organization over a subordinate body only in accordance with the constitution and bylaws of the organizations and 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. A fair hearing to authorize or ratify a trusteeship is a prerequisite to a valid trusteeship. 29 U.S.C. § 304(c).

Here, the trusteeship was imposed on the recommendation of [REDACTED], assistant to the AFM president. [REDACTED] had been assigned by the president to review matters in Local 16 when the local could not agree on a course of action for negotiations between Local 16 and the New Jersey Symphony Orchestra, an employer of approximately 10% of the local's members. [REDACTED] reported that a committee of NJSO members and Local 16 President [REDACTED] were engaged in a power struggle with respect to negotiating the new contract with NJSO, and the relationship had deteriorated to the point where the local's ability to discharge its responsibilities as bargaining agent had become imperiled. [REDACTED] further reported that the local executive board had decided to continue a death benefit fund without first obtaining a proper quorum; that the local executive board had failed to review properly submitted resolutions pertaining to local elections of officers and officer duties; that the local had not followed proper procedures with respect to resolutions concerning the hours and salary of the secretary-treasurer, no minutes of meetings had been kept for over a year, and that a new dues structure had been adopted by the local executive board without a proper quorum.

Based on [REDACTED] report, the AFM placed Local 16 in trusteeship on June 4, 2011. On June 10, 2011, notice of the trusteeship hearing was provided to the Local 16 membership. AFM held the trusteeship hearing on June 21, 2011. On June 30, 2011, the trusteeship was continued by order of the IAM Executive Board.

The Department of Labor received a complaint challenging the legality of the trusteeship. The complaint alleged that the hearing notice did not inform members of the charges that formed the basis for the trusteeship. The Department of Labor

investigation revealed that on June 10, 2011, the Local 16 President received a letter from the AFM International President stating that the International Executive Board had voted to place Local 16 in trusteeship. The letter further stated that the decision was based on the [REDACTED] report. A copy of the report was attached to the letter. The letter and the accompanying report sent to the local president served as proper notice of the charges and would allow for the local to prepare a defense to those charges. The trusteeship hearing requirement of the LMRDA does not include a requirement that each member receive notice of the charges. There is no such requirement in the AFM bylaws. There was no violation of the LMRDA.

The complaint further challenged whether the trusteeship was imposed for a proper purpose. The complaint stated that the allegation that the local mismanaged funds was untrue and that the trusteeship was imposed so that the NJSO members could gain control of the local's finances. The investigation disclosed that the trusteeship was imposed for a purpose allowable under the LMRDA. Even if, for the sake of argument, the AFM was incorrect concerning the local's mismanagement of funds, the investigation substantiated the [REDACTED] report's finding that negotiations with NJSO were not progressing because of internal problems in the local. On that basis alone, it can be found that the trusteeship was imposed for a purpose allowable under the LMRDA. There was no violation of the LMRDA.

The complainant also alleged that AFM failed to inform members of a merger with AFM Local 248. This matter does not implicate the trusteeship provisions of the LMRDA.

The Department of Labor investigation did not disclose a violation of the trusteeship provision of the LMRDA. Accordingly, we are closing our file in this matter.