



April 16, 2013

[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), 29 U.S.C. §§ 461 - 466, as made applicable to elections of 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, occurred with respect to a trusteeship imposed by the American Federation of Government Employees (AFGE), over Local 1687, in Mountain Home, Tennessee.

An investigation was conducted by OLMS. After carefully reviewing the investigative findings, we have determined that legal action is not warranted in this case. Therefore, we are 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

Enclosure

cc: Christopher Wilkinson, Associate Solicitor

U.S. Department of Labor

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



April 16, 2013



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April 16, 2013

J. David Cox, National President
American Federation of Government Employees (AFGE)
80 F Street, N.W.
Washington, D.C. 20001

Dear Mr. Cox:

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), 29 U.S.C. §§ 461 - 466, as made applicable to elections of 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, occurred with respect to a trusteeship imposed by the American Federation of Government Employees (AFGE), over Local 1687, in Mountain Home, Tennessee.

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Statement of Reasons
Dismissing a Complaint Concerning the Trusteeship
Imposed by the American Federation of Government Employees on Local 1687

This Statement of Reasons dismisses the complaint filed with the U.S. Department of Labor on November 7, 2012, alleging that the American Federation of Government Employees (AFGE) violated the Civil Service Reform Act of 1978 (CSRA), in connection with its imposition of a trusteeship over Local 1687 on August 28, 2012, in Mountain Home, Tennessee. The Department of Labor's regulations provide that "[t]rusteeships shall be established and administered by a labor organization over a subordinate body only in accordance with the constitution and bylaws of the organization which has assumed trusteeship over the subordinate body." 29 C.F.R. § 458.26; *see* 5 U.S.C. § 7120(d). The Department conducted an investigation of the allegations. For the following reasons, the complaint is dismissed.

Specifically, complainants alleged that AFGE did not comply with the procedural requirements prescribed in AFGE's Constitution for establishing trusteeships by failing to provide notification of the trusteeship within 5 days and by not providing the time, date and place of the trusteeship hearing in the original trusteeship notification. Article IX, Section 5(b)(5).

The Department's investigation revealed that on August 28, 2012, National President David Cox imposed a trusteeship in accordance with Article IX, Section 5(a) and 5(b)(4) of the AFGE National Constitution. The notice, dated August 28, which was mailed to the membership on September 5, stated that Cox would appoint an impartial hearing panel and that the hearing would take place within 60 days. Additionally, the notice provided that further information would be forthcoming with respect to the time, date, and place of the hearing.

The trusteeship was imposed in substantial compliance with the AFGE National Constitution. To the extent that AFGE deviated from the procedures, by not mailing the notice within five days and by not providing the time, date and place of the hearing in the notice dated August 28, this error was harmless. The record reflects that in a letter dated October 3, 2012, Cox notified the Local 1687 membership of the time, date, and place for the hearing. Each officer removed because of the trusteeship attended and actively participated in the hearing. Despite Cox's lack of detail in the initial notice, the officers nonetheless testified, presented witnesses, cross-examined witnesses, and offered evidence at the hearing. No officer was harmed because of the error.

Complainants also alleged that the trusteeship was not imposed for an allowable purpose. The union Constitution provides that a “violation of law established by preponderant evidence gathered by AFGE or by local, state, or federal officials” is an allowable reason to establish an expedited trusteeship. Article IX, Section 5(b)(4). This provision is consistent with the legitimate objectives of the union. 29 C.F.R. §458.26(d).

The Department’s investigation showed that there was a preponderance of evidence that the officers of Local 1687 had misused the union resources and created a conflict of interest in violation of 29 C.F.R. § 458.33. The evidence gathered and presented before and during the hearing, included numerous documents and witnesses indicating that the officers had operated a business out of the Local’s offices with union/employer equipment for personal gain. This evidence substantiated AFGE’s imposition of the trusteeship. Accordingly, the trusteeship was imposed for an allowable purpose.

Finally, the trusteeship has been established for less than 18 months. Therefore, there is a presumption of its validity. The investigation did not disclose any evidence to rebut this presumption.

For the reasons set forth above, we are closing the Department’s file on this matter.