

trusteeship upon Local 115 ("Local 115" or "the Local") in retaliation for the vigorous political opposition of Plaintiff John P. Morris ("Morris") to Hoffa in the 1996 and 1998 International elections and to suppress such opposition going forward. On December 28, 1999, the Court granted Plaintiffs' Motion for a Preliminary Injunction, preliminarily enjoining Defendants from exercising the emergency trusteeship over Local 115 and ordering Defendants to return control of the Local to its duly elected officers. The Court concluded that Plaintiffs had demonstrated a reasonable likelihood of proving that the information available to Hoffa at the time he decided to impose the emergency trusteeship was insufficient to provide him with a good faith belief in the existence of an emergency. The United States Court of Appeals for the Third Circuit on December 30, 1999, stayed the injunction Order pending appeal. During the pendency of the appeal, the International conducted an internal union hearing upon the matter of the trusteeship, and Hoffa, based upon the recommendation of the hearing panel ("Panel"), issued a decision to continue the trusteeship. On June 12, 2000, the Third Circuit dismissed the appeal as moot and vacated the preliminary injunction Order.

During the pendency of Defendants' Motion for Summary Judgment, the International conducted elections for officers of Local 115 and on June 13, 2001 dissolved the trusteeship when the officers were sworn into their offices.

II. Jurisdiction

This action arises under Sections 101(a)(2), 302, and 609 of the Labor-Management Reporting and Disclosure Act ("LMRDA"), 29 U.S.C. §§ 411(a)(2), 462, 529, and Section 301 of the Labor Management Relations Act ("LMRA"), 29 U.S.C. § 185. This Court has jurisdiction pursuant to Sections 102 and 304 of the LMRDA, 29 U.S.C. §§ 412, 464; Section 301 of the LMRA, 29 U.S.C. § 185; and 28 U.S.C. § 1331.

III. Legal Standard

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). An issue is "genuine" if the evidence is such that a reasonable jury could return a verdict for the non-moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). A factual dispute is "material" if it might affect the outcome of the case under governing law. Id.

A party seeking summary judgment always bears the initial responsibility for informing the district court of the basis for its motion and identifying those portions of the record that it believes demonstrate the absence of a genuine issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). Where

the non-moving party bears the burden of proof on a particular issue at trial, the movant's initial Celotex burden can be met simply by "pointing out to the district court that there is an absence of evidence to support the non-moving party's case." Id. at 325. After the moving party has met its initial burden, "the adverse party's response, by affidavits or otherwise as provided in this rule, must set forth specific facts showing that there is a genuine issue for trial." Fed. R. Civ. P. 56(e). That is, summary judgment is appropriate if the non-moving party fails to rebut by making a factual showing "sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." Celotex, 477 U.S. at 322. Under Rule 56, the Court must view the evidence presented on the motion in the light most favorable to the opposing party. Anderson, 477 U.S. at 255. "[I]f the opponent [of summary judgment] has exceeded the 'mere scintilla' [of evidence] threshold and has offered a genuine issue of material fact, then the court cannot credit the movant's version of events against the opponent, even if the quantity of the movant's evidence far outweighs that of its opponent. Big Apple BMW, Inc. v. BMW of North America, Inc., 974 F.2d 1358, 1363 (3d Cir. 1992).

IV. Discussion

A. Motion for Summary Judgment

Plaintiffs' Complaint brought three counts alleging that Defendants: invalidly imposed a trusteeship in violation of Title III of the LMRDA, 29 U.S.C. §§ 462, 464, and the International Constitution (Count I); violated Plaintiffs' rights to free speech pursuant to the LMRDA's Bill of Rights, specifically 29 U.S.C. § 411(a)(2), and disciplined Plaintiffs for the exercise of their free speech rights in violation of 29 U.S.C. § 529 (Count II); and breached the contract between Plaintiffs and Defendants, i.e., the International constitution, by imposing an emergency trusteeship over Local 115 in the absence of any colorable emergency situation, in violation of the LMRA, 29 U.S.C. § 185 (Count III). Plaintiffs sought various measures of injunctive relief, compensatory and punitive damages, and attorneys' fees and costs.

Plaintiffs acknowledge that the dissolution of the trusteeship has rendered moot the equitable relief sought in Counts I and III. Therefore, these claims are dismissed as moot to the extent they request equitable relief. Similarly, Defendants' counterclaims, which seek injunctive and declaratory relief, are also dismissed as moot.²

²Defendants sought "to declare valid a trusteeship imposed upon Teamsters Local Union No. 115 pursuant to the IBT Constitution and to secure injunctive relief enforcing the terms of the temporary trusteeship." (Defs.' Answer at 9.)

Plaintiffs continue to seek compensatory and punitive damages for the alleged violations of Title III of the LMRDA in Count I, and for the alleged free speech violations in Count II. The Court will address the merits of Defendants' Motion for Summary Judgment as to Counts I and II in turn.

1. Count I: The LMRDA Title III Claim

In Count I, Plaintiffs challenge the validity of the imposition and maintenance of the trusteeship. Section 302 of Title III of the LMRDA governs the establishment of trusteeships over subordinate union bodies. It provides:

Trusteeships 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 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.

28 U.S.C.A. § 462 (West 1998). Under the statute, one of two defects will invalidate a trusteeship: (1) that it was not established or administered in accordance with the constitution and bylaws of the union; or (2) that it was not established or administered for one of the enumerated statutory purposes. 29 U.S.C.A. § 462 (West 1998). Section 304 of Title III affords the labor organization imposing the trusteeship a rebuttable

presumption of validity if two conditions are satisfied: the trusteeship was: (1) established in conformity with the procedural requirements of the union constitution and bylaws; and (2) authorized or ratified after a fair hearing. 29 U.S.C.A. § 464(c).

The provisions in the IBT constitution governing trusteeships closely track those in the LMRDA. The IBT constitution provides that the General President may impose a trusteeship in two circumstances. First, the General President may appoint a temporary trustee where he has or receives information which leads him to believe that:

- (1) any of the officers of a local union or other subordinate body are dishonest or incompetent;
- (2) the local union is not being conducted in accordance with the constitution and laws of the International or for the benefit of the membership; or
- (3) the local union is being conducted in such a manner as to jeopardize the interests of the international or its subordinate bodies.

(IBT Constitution ("IBT Const."), Art. VI § 5, admitted at Preliminary Injunction Hearing ("Prelim. Inj. Hrg.") Ex. 2.)

Second, the General President may appoint a temporary trustee where the General President believes that such action is necessary for the purpose of:

- (1) correcting corruption;
- (2) correcting financial malpractice;
- (3) assuring the performance of collective bargaining agreements or other duties of a bargaining representative;
- (4) restoring democratic procedures;
- (5) preventing any action which is disruptive of, or interferes with the performance of obligations of

- other members or local unions under collective bargaining agreements;
- (6) otherwise carrying out legitimate objects of the local union.

Id. Normally, the IBT constitution requires that the General President first set a hearing to determine whether a temporary trustee shall be appointed before appointing the trustee. Id. The IBT constitution provides, however, that "where, in the judgment of the General President, an emergency situation exists within the Local Union or other subordinate body," the General President may appoint a temporary trustee prior to the hearing, but the hearing must commence within thirty days following the appointment. Id.

Plaintiffs challenge both the emergency imposition and the post-hearing maintenance of the trusteeship. Specifically, Plaintiffs allege that the trusteeship was invalid under Section 302 of Title III because Defendants failed to follow the proper procedure in establishing the trusteeship under the LMRDA and the IBT constitution, and because Defendants were motivated by political animus in violation of free speech guarantees under Titles I and VI of the LMRDA. Defendants claim they are entitled to summary judgment as to all aspects of Count I.

a. The Emergency Trusteeship

Count I first challenges the validity of the procedures through which the Defendants established the emergency trusteeship. Specifically, Plaintiffs contend that "[n]o 'emergency situation' existed . . . within Local 115 . . . for Defendants' imposition of

an emergency trusteeship over Local 115."³ Compl. ¶ 69. Under the provisions of the IBT Constitution, an emergency trusteeship may be established prior to a hearing only "where, in the judgment of the General President, an emergency situation exists within the Local Union or other subordinate body." (IBT Const. Art. VI § 5). Consequently, the imposition of an emergency trusteeship prior to holding a hearing, and in the absence of a good faith belief in the existence of an emergency situation, would violate the IBT procedures.

This Court has previously concluded, at the preliminary injunction stage, that the evidence demonstrated a reasonable likelihood of proving that the information available to Hoffa at the time he decided to impose the emergency trusteeship was insufficient to provide him with a good faith belief in the existence of an emergency.⁴ This evidence creates a genuine issue

³The issue, of course, is not whether there actually existed an emergency situation, but whether the official initiating the trusteeship had a good faith or reasonable belief that such a situation existed. Morris v. Hoffa, Civil Action No.99-5579, 1999 U.S. Dist. LEXIS 19779, at *18 (E.D. Pa. Dec. 28, 1999); International Bhd. of Teamsters, Local Union 107 v. International Bhd. of Teamsters, 935 F. Supp. 599, 601 (E.D. Pa. 1996) ("The court's role is not to decide whether in fact an emergency situation existed.").

⁴Plaintiffs mischaracterize the Court's preliminary injunction determination as "finding that the IBT and Hoffa had not acted in good faith . . ." (Pls.' Mem. in Opp. at 7.) The Court's determination, however, did not go that far. Rather, the Court concluded that, "Plaintiffs have a reasonable likelihood of proving that the information available to Hoffa at the time he decided to impose an emergency trusteeship on Local 115 was insufficient to

of material fact under Rule 56 as to whether Hoffa imposed the emergency trusteeship in accordance with the IBT constitution. If Plaintiffs establish at trial that Defendants' imposition of the emergency trusteeship suffered from this procedural deficiency, Plaintiffs would then have the opportunity to proceed on the damages claim for the period between the defective imposition of the emergency trusteeship on November 15, 1999, and Hoffa's May 31, 2000 decision, based on the post hoc hearing, to continue the trusteeship.⁵ Accordingly, the Court denies the motion for summary judgment as to the emergency trusteeship period from November 15, 1999 to May 31, 2000.

b. Post-Hearing Trusteeship

In Count I, Plaintiffs further challenge the continuation of the trusteeship after the hearing, charging that Defendants conducted the hearing unfairly and had an improper motive for deciding to continue the trusteeship.

provide him with a good faith belief in the existence of an emergency." (Doc. No. 43 at 16.)

⁵Plaintiffs have not yet specified the nature of the compensatory damages sought under Title III. Plaintiffs may not, however, collect any personal damages for lost wages, loss of position, or any other individual damages on this portion of the Title III claim. The potential damage recovery on a Title III claim is limited to damages to the local union itself. See Ross v. Hotel Employees & Restaurant Employees Int'l Union, No.00-3142, 2001 U.S. App. LEXIS 20652, at *33-34 (3d Cir. Sept. 17, 2001) (citing Gesink v. Grand Lodge, Int'l Ass'n of Machinists & Aerospace Workers, 831 F.2d 214, 216 (10th Cir. 1987)). The Court does not reach the question of Plaintiffs' entitlement to such damages on behalf of the local union.

Plaintiffs' claim raises two issues with respect to the post-hearing decision to maintain the trusteeship: (1) whether the eighteen-month statutory presumption of validity applies with respect to the post-hearing trusteeship; and (2) whether Plaintiffs have demonstrated the existence of a genuine issue of material fact with respect to the validity of the maintenance of the trusteeship under Title III.

Section 464(c) of the LMRDA establishes the statutory presumption, as follows:

In any proceeding pursuant to this section a trusteeship established by a labor organization in conformity with the procedural requirements of its constitution and bylaws and authorized or ratified after a fair hearing either before the executive board or before such other body as may be provided in accordance with its constitution or bylaws shall be presumed valid for a period of eighteen months from the date of its establishment and shall not be subject to attack during such period except upon clear and convincing proof that the trusteeship was not established or maintained in good faith for a purpose allowable under section 462 of this title.

29 U.S.C.A. § 464(c) (West 1998).

Plaintiffs contend that the statutory presumption of validity does not apply in this case because the emergency trusteeship was not instituted in conformity with the constitutional procedures for establishing a trusteeship. Specifically, Plaintiffs charge that the emergency trusteeship was not established with a good faith belief on the part of the International president that an emergency situation existed. As the Court has already held above, a genuine

issue of material fact exists with respect to the "good faith" aspect of the emergency imposition of the trusteeship.⁶

However, following the emergency imposition of the trusteeship, a hearing was held after which the International decided to maintain the trusteeship. The issue before the Court is whether these subsequent proceedings, which ratified the trusteeship, entitled the post-hearing trusteeship to the presumption of validity. See Mason Tenders District Council of Greater New York v. Laborers' Int'l Union of North America, 884 F. Supp. 823, 834 (S.D.N.Y. 1995). "The statute provides that the trusteeship is given the presumption [of validity] if it is 'authorized or ratified after a fair hearing.'" Argentine v. United Steel Wkrs. Assn, 23 F. Supp. 2d 808, 816 (S.D. Ohio 1998) (emphasis added). A fair hearing demonstrating a proper purpose may subsequently justify the maintenance of the trusteeship, even if the imposition of the emergency trusteeship was initially

⁶While the Court has concluded that there is a genuine issue of material fact with respect to whether the trusteeship was initially imposed in accordance with the IBT Constitution's procedures for imposing an emergency trusteeship, the Court makes no final determination here as to the merits of Plaintiffs' claim that the emergency imposition of the trusteeship was invalid.

defective. Mason Tenders, 884 F. Supp. at 836. The Court treats the initial decision to impose the emergency trusteeship and the subsequent post-hearing decision to maintain the trusteeship as separate and discreet inquiries, because:

If, as a by-product of an improperly imposed emergency trusteeship additional and compelling evidence of corruption comes to light, it would be imprudent for a court to intrude on the further action taken by a parent union based on this additional information in combination with that information which formed the original basis for the imposition of the trusteeship in the first place.

Mason Tenders, 884 F. Supp. at 835 (citing Markham v. International Ass'n of Bridge, Structural & Ornamental Iron Workers, 901 F.2d 1022, 1024-26 (11th Cir. 1990); see also C.A.P.E. Local Union 1983 v. International Bhd. of Painters & Allied Trades, 598 F. Supp. 1056, 1071-73 (D.N.J. 1984)).

In order to determine if the presumption of validity applies, the Court must examine the hearing through which the trusteeship was ratified and maintained to determine if it was fair. A fair hearing is required for the valid imposition of a trusteeship. 29 U.S.C.A. § 464(c) (West 1998); Becker v. Indus. Union of Marin & Shipbuilding Workers, 900 F.2d 761, 768 (4th Cir. 1990). A fair hearing must meet the minimum requirements of notice and an opportunity to defend. Becker, 900 F.2d at 768 (citing Luggage Workers Union, Local 167 v. International Leather Goods, Plastics & Novelty Workers' Union, 316 F. Supp. 500, 508 & nn.17 & 18 (D. Del. 1970)). At the hearing, the local must be accorded the opportunity to cross-examine the international's witnesses and

present rebuttal evidence. Becker, 900 F.2d at 769 (citing Jolly v. Gorman, 428 F.2d 960, 968 (5th Cir. 1970); Hansen v. Guyette, 814 F.2d 547, 549 (8th Cir. 1987)).

Plaintiffs challenge the fairness of the hearing on the basis of two alleged faults: (1) heavy police presence inhibited members from testifying; and (2) Plaintiffs were not able to have the assistance of counsel during the hearing. (Pls.' Resp. at 46-49.) Neither ground establishes a genuine issue of material fact as to the unfairness of the hearing. The presence of police security at the hearing does not by itself render a hearing unfair. Accord Chapa v. Local 18, 737 F.2d 929, 933 (11th Cir. 1984) (holding that presence of deputy sheriffs at executive board meeting did not render disciplinary hearing unfair under the LMRDA). While there is no dispute that security was heavy, Plaintiffs have provided no evidence that Defendants controlled the police, or that the police presence interfered with the presentation of rebuttal evidence or cross-examination so as to render the hearing unfair. Moreover, the lack of counsel does not make the hearing unfair, because there is no right to representation by counsel at such a hearing. Transport Workers Union of Philadelphia Local v. Transport Workers Union of America, ALF-CIO, No. Civ.A.00-4815, 2000 WL 1521507, at *2 (E.D. Pa. Sept. 29, 2000) ("[T]he court finds that the presence or participation of attorneys is not mandated by the Union Constitution or by the fair hearing requirement of § 464."); Rauscher v. Bakery, Confectionary & Tobacco Workers Int'l Union,

Civil Action No. 93-5629, 1993 U.S. Dist. LEXIS 14288, at *5 (E.D. Pa. Oct. 8, 1993); International Bhd. of Elec. Workers Local 1186 v. Eli, 307 F. Supp. 495, 510 (D. Haw. 1969).

The Court concludes that Plaintiffs have failed to establish a genuine issue of material fact as to the unfairness of the hearing. Therefore, the Court concludes that the post-hearing trusteeship meets the requirements of § 464(c) and is entitled to the statutory presumption of validity.⁷ In order to overcome the presumption, Plaintiffs must show, "upon clear and convincing proof that the trusteeship was not . . . maintained in good faith for a purpose allowable under section 462" of the LMRDA. 29 U.S.C. § 464(c); Mason Tenders, 884 F. Supp. at 836.

The Court now turns to Defendants' Motion for Summary Judgment on this claim. Defendants' primary argument is that the existence of a proper purpose for imposing the trusteeship is sufficient under the law to establish the validity of the trusteeship, even when an improper motive is alleged. (Defendants' Supp. Mem. at 10.) Defendants' proposition has not been addressed by the Third Circuit; however, the United States District Court for the Southern District of New York addressed the issue in the context of a preliminary injunction request in Mason Tenders District Council of

⁷As noted above, § 464(c) also requires conformity with applicable procedural requirements in order for the presumption of validity to apply. Although Plaintiffs allege a lack of good faith in establishing the emergency trusteeship, Plaintiffs have not raised any alleged procedural defects with respect to the post-hearing trusteeship.

Greater New York, 884 F. Supp. 823 (S.D.N.Y. 1995). The court, in denying the injunction request, concluded that the plaintiffs would not be able to establish bad faith or improper motive because there was at least one proper purpose for imposing the trusteeship. Id. The court observed that “[o]ne legally permissible purpose is all that is required for a valid trusteeship,” id. at 836 (citing National Assoc. of Letter Carriers v. Sombrotto, 449 F.2d 915, 923 (2d Cir. 1971); C.A.P.E. Local Union 1983, 598 F. Supp. at 1075), and an improper motive “will only invalidate the trusteeship if no other valid motive was present.” Mason Tenders, 884 F. Supp. at 836. Therefore, “[s]ince the valid purpose of ridding the District Council of the improprieties uncovered after the imposition of the trusteeship was found by the Special Hearing Panel at the [post hoc] hearing and subsequently adopted by the General Executive Board . . . plaintiffs fail to show . . . that [the president] and [the international] acted to maintain the trusteeship in bad faith or for an unauthorized purpose.” Id. at 836-37. The plaintiffs’ evidence of improper motive, even if established at trial, was merely “an additional motive” without effect. Id. at 836.

The Court agrees with the reasoning in Mason Tenders that the establishment of a single proper purpose for establishing the trusteeship is sufficient to determine that the trusteeship is valid under Title III, even in the presence of additional allegedly improper motives. Thus, the issue for the Court is whether Plaintiffs have set forth clear and convincing evidence that the

trusteeship was not maintained in good faith for a proper statutory purpose.

At the internal union hearing on the trusteeship over Local 115, the hearing Panel, acting as fact finder, found numerous grounds supporting their recommendation that the trusteeship be continued, including: refusal to provide members of the Local with copies of their collective bargaining agreements; intimidation and physical attacks on members; financial abuse such as purchase of a building in Harrisburg, Pennsylvania that provided no benefit to the Local; commingling of Local funds with other union funds under the control of Morris; missing assets; extortion of Christmas cash gifts; compelling of members of the Local to do work that benefitted Morris and his relatives personally; and engineering of the termination of the jobs of Local members who were perceived as disloyal. (Defs.' Mot. Ex B ("Aff. of Edward F. Keyser, Jr.")). Upon the Panel's recommendation, Hoffa continued the trusteeship. The Panel's findings constitute evidence that Hoffa maintained the trusteeship for a proper purpose.

The findings as to the existence of at least one proper purpose for maintaining the trusteeship are uncontroverted.⁸ Plaintiffs provide no evidence to demonstrate that there are

⁸Plaintiffs make no argument challenging the findings of the Panel and present no evidence to contradict the findings of proper purposes for maintaining the trusteeship. To the extent that Plaintiffs challenge the validity of the findings on the basis that the hearings were unfair, the Court has already determined that there is insufficient basis to reach such a conclusion.

genuine issues of material fact with respect to the existence of at least one proper purpose for maintaining the trusteeship. Plaintiffs' evidence instead aims to show the existence of other improper purposes and motives for establishing and maintaining the trusteeship without demonstrating that there was no proper purpose under Title III. Thus, even assuming that Plaintiffs could prove by clear and convincing evidence the existence of an improper purpose, Plaintiffs would fail to meet their burden under the presumption of validity to show by clear and convincing evidence that Defendants did not maintain the trusteeship "in good faith for a purpose allowable under section 462."⁹ Particularly in light of the uncontroverted existence of several proper purposes for maintaining the trusteeship, the Court need not determine whether Plaintiffs could prove by clear and convincing evidence the

⁹Though much of Plaintiffs' briefing speaks in terms of "bad faith," the argument and evidence relating to the lack of good faith focus squarely on the alleged bad faith of International President Hoffa in establishing the emergency trusteeship. The evidence does not similarly touch upon the hearing or the post-hearing decision to ratify and maintain the trusteeship. The Court recognizes that some courts regard proof of "bad faith" as a complete defense under § 464(c). See International Union, Allied Industrial Workers of America v. Local Union No. 589, 693 F.2d 666, 676 (7th Cir. 1982) (citing Hotel & Rest. Employees & Bartenders Int'l Union v. Rollison, 615 F.2d 788, 793 (9th Cir. 1980)); Hardy v. International Bhd. of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers & Helpers, 682 F. Supp. 1323, 1330 (E.D. Pa. 1988) ("Plaintiffs in order to succeed on their claim must present clear and convincing proof of bad faith or illicit purpose."). As discussed above, however, there is an important distinction between the decision to establish the emergency trusteeship and the decision to ratify and maintain the trusteeship as described above. The Court concludes that Plaintiffs have failed to provide evidence of bad faith in relation to the latter decision.

existence of additional improper motives, because the existence of such motives would not invalidate the trusteeship if there were at least one proper purpose for maintaining the trusteeship. See Mason Tenders, 884 F. Supp. at 836.

Based on the record, the Court concludes that Plaintiffs have failed to present evidence that would demonstrate that the trusteeship was not maintained in good faith for a proper statutory purpose under Title III. Accordingly, the Court grants Defendants' Motion for summary judgment with respect to that portion of Count I that alleges that the trusteeship over Local 115 violated Title III of the LMRDA because it was maintained for an improper purpose. Plaintiffs may proceed to trial only on the claim that Defendants failed to impose the pre-hearing emergency trusteeship in accordance with the IBT constitution, and that they are entitled to damages for the period between the imposition of the emergency trusteeship on November 15, 1999, and Hoffa's decision to continue the trusteeship on May 31, 2000.

2. Count II: The Free Speech Claim

In Count II, Plaintiffs allege that Defendants improperly imposed the trusteeship over Local 115 to retaliate against Plaintiffs for their political opposition to Hoffa and to suppress the free speech rights of Local 115 officials and members, in violation of Sections 101 and 609 of the LMRDA, 29 U.S.C. §§ 411, 529. Section 101 of Title I of the LMRDA provides:

Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments, or opinions; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: Provided, That nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations.

29 U.S.C.A. § 411(a)(2) (West 1998). Section 102 of Title I provides a cause of action for violation of Section 101.

Any person whose rights secured by the provisions of this subchapter have been infringed by any violation of this subchapter may bring a civil action in a district court of the United States for such relief (including injunctions) as may be appropriate.

. . .

29 U.S.C.A. § 412 (West 1998). Section 609 of Title VI of the LMRDA makes unlawful certain kinds of discipline of a union member.

It shall be unlawful for any labor organization, or any officer, agent, shop steward, or other representative of a labor organization, or any employee thereof to fine, suspend, expel, or otherwise discipline any of its members for exercising any right to which he is entitled under the provisions of this chapter. The provisions of section 412 of this title shall be applicable in the enforcement of this section.

29 U.S.C.A. § 529 (West 1998).

Defendants argue that they are entitled to summary judgment on the Title I claim because “[a]s a matter of law, a validly imposed trusteeship under Title III LMRDA does not deprive union members of their rights under Title I.”¹⁰ (Defs.’ Mem. at 20.) Defendants rely principally on Farrell v. Int’l Brotherhood of Teamsters, 888 F.2d 459, 461-62 (6th Cir. 1989), a decision that, while not corresponding directly to the instant case, does inform this Court’s analysis. In Farrell, the plaintiffs claimed that the international’s imposition of a trusteeship immediately after creating their local violated their Title I right to vote in union elections.¹¹ Id. at 461. Unlike Plaintiffs in the instant case, the Farrell plaintiffs did not challenge the validity of the trusteeship under Title III. Id. The court concluded, however, that the plaintiffs could not maintain a suit for alleged violation of Title I rights by means of a trusteeship without addressing the question of the trusteeship’s validity under Title III. Id. at 461. The court observed:

Title III, not Title I, provides these appellants with their appropriate remedy. A determination of the validity vel non of the

¹⁰The Court construes Defendants’ argument as applying only to the type of claim asserted here, where the imposition and maintenance of the trusteeship mechanism itself constituted the alleged Title I violation.

¹¹The Farrell plaintiffs sued under the equal rights provision of the LMRDA Bill of Rights, 29 U.S.C. § 411(a)(1), which provides that every member of a labor organization shall have equal rights and privileges, inter alia, to vote in elections. Farrell, 888 F.2d at 460.

trusteeship must precede any determination of the appellants' right to hold local elections. If the trusteeship in the present case is a fraud, the statute provides a mechanism for the appellants to prove it and thereafter recover their Title I rights. But, let them not put the cart before the horse.

Id. at 462. To determine otherwise, the court reasoned, would "reduce to surplusage" the specific remedies for improper establishment of a trusteeship provided in Title III. Id. at 461.

In this case, as in Farrell, Plaintiffs bring a claim under Title I for damages associated with the imposition of the allegedly invalid trusteeship. Plaintiffs allege that "Defendants' imposition of a purported 'emergency' trusteeship over Local 115 was carried out in bad faith, as a political reprisal against the members of Local 115 for their vigorous electoral opposition to Hoffa's candidacy for General President and his policies." (Compl. ¶ 58 (emphasis added)). Plaintiffs further allege that "Defendants imposed the trusteeship against Local 115 specifically to suppress the opposition policies, electoral activities and dissent of Plaintiff Morris and the Plaintiff elected members of the Local 115 Executive Board, to the policies and administration of Defendant Hoffa and the IBT" (Compl. ¶ 59 (emphasis added)); that "Defendants have imposed the trusteeship against Local 115 to undermine the credibility of the expected trial testimony of Plaintiffs Morris, Woodring and other members of Local 115 . . ." (Compl. ¶ 60 (emphasis added)); and that "Defendants have imposed the trusteeship upon Local 115 in order to retaliate against the

members of Local 115 and its elected officers, the Plaintiffs, for their past and current political opposition to the policies and administration of Defendant Hoffa." (Compl. ¶ 61 (emphasis added).) Plaintiffs expressly cast their Title I claim as one "challenging the unlawful imposition of a trusteeship, not the job terminations of Plaintiffs." (Pls.' Mem. at 44-45.)

Plaintiffs' Title I claim, in fact, is difficult to distinguish from their Title III claim. The provisions of Title I are aimed at protecting the individual rights of members of the union and in protecting democratic process. Ross, 2001 U.S. App. LEXIS 20652, at *43, *46. On the other hand, "Title III is designed to protect a subordinate union as a whole . . ." Id. at *46 (citing Pope v. Office & Professional Employees Int'l Union, 74 F.3d 1492, 1504 (6th Cir. 1996)). It is for this reason that there is no cause of action for individual damages under Title III. Ross, 2001 App. LEXIS 20652, at *46 (citing Gesink, 831 F.2d at 216).

Plaintiffs' argument that the imposition of the trusteeship violated their rights of free speech under the LMRDA Bill of Rights is really just another way of saying that the trusteeship was invalid because it was imposed for an improper motive. The substance of Plaintiffs' Count II allegations challenge the validity of the trusteeship. Plaintiffs do not challenge, for example, their job terminations. Rather, they specifically present their Title I claim as a challenge to the use of the trusteeship

mechanism.¹² As observed above, however, such challenges to the validity of a trusteeship may only be brought under Title III. Farrell, 888 F.2d at 461. Based on the allegations involved here, Plaintiffs lack another cause of action under Title I. This reasoning also applies to Plaintiffs' claim pursuant to Section 609 of Title VI of the LMRDA, 29 U.S.C. § 529, asserting that the trusteeship constitutes unlawful discipline for exercise of an LMRDA-protected right. Accordingly, the Court grants Defendants' Motion for Summary Judgment on Count II.

3. Application of Federal Rule of Civil Procedure 54(b)

This Court's disposition of Defendants' Motion may warrant entry of final judgment qualifying for immediate appeal pursuant to Federal Rule of Civil Procedure 54(b). However, it is the burden of the parties seeking judgment under Rule 54(b) to demonstrate that such action is appropriate and just. Forbes v. Eagleson, 19 F. Supp. 2d 352, 378 (E.D. Pa. 1998) (citing Anthuis v. Colt Indus. Operating Corp., 971 F.2d 999, 1003 (3d Cir. 1992) and Allis-

¹²Moreover, to the extent that Plaintiffs seek Title I damages for the improper maintenance of the trusteeship, Defendants would also be entitled to judgment, because there can be no Title I recovery for valid use of the trusteeship mechanism. The Court has already concluded that Plaintiffs have failed to establish a genuine issue of material fact with respect to the validity of the trusteeship. The importance of respecting Title III's provisions governing trusteeships constrains the Court from interpreting the free speech protections of Title I to bar the use of a trusteeship that Title III deems valid. In other words, since the trusteeship in this case passes muster under Title III, then the maintenance of the trusteeship cannot also violate Title I.

Chalmers Corp. v. Philadelphia Elec. Co., 521 F.2d 360, 365 (3d Cir. 1975). Accordingly, the parties may file a motion seeking such judgment under Rule 54(b) should they wish to do so, in accordance with the deadline established in the accompanying Order.

B. Motion for Leave to File a Reply

Plaintiffs seek leave to file a reply to Defendants' Supplemental Memorandum with respect to the standard of proof. Specifically, Plaintiffs assert that "Defendants' Supplemental Memorandum contains inaccuracies, misstatements of law, and significantly misrepresents a legal position taken by Plaintiffs throughout this litigation as to the standard of proof required for a trusteeship." (Pls.' Mot. at 1-2.) Plaintiffs have had ample opportunity to fully apprise the Court of their position regarding the standard of proof, and their position is articulated at length in prior submissions. The Court denies Plaintiffs' Motion for Leave to File a Reply.

An appropriate Order follows.

2. Defendants' Motion for Summary Judgment is **DENIED** as to the emergency imposition of the trusteeship in Count I. Plaintiffs may proceed on the damages claim with respect to the emergency trusteeship from the period from November 15, 1999 to May 31, 2000. Defendants' Motion is **GRANTED** as to the maintenance of the trusteeship in Count I. Judgment is entered in favor of Defendants on Count I with respect to the damages claim for maintenance of the trusteeship.
3. Defendants' Motion is **GRANTED** as to Count II. Judgment is entered in favor of Defendants on Count II.
4. The parties may file a motion for judgment pursuant to Rule 54(b) of the Federal Rules of Civil Procedure on or before November 12, 2001.

IT IS FURTHER ORDERED that, upon consideration of Plaintiff's Motion for Leave to File Reply (Doc. No. 79), and any responses thereto, said Motion is **DENIED**.

BY THE COURT:

John R. Padova, J.