



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 19  
915 2nd Ave Ste 2948  
Seattle, WA 98174-1006

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (206) 220-6300  
Fax: (206) 220-6305

October 25, 2018

Lindsay R. Nicholas, Attorney  
Leonard Carder, LLP  
1188 Franklin Street  
Suite 201  
San Francisco, CA 94109-6852

Jennifer Keating  
Leonard Carder LLP  
1330 Broadway Suite 1450  
Oakland, CA 94612-2591

Re: Machinists District Lodge 190 & Local  
Lodge 1546 & Local Lodge 160  
(Pacific Crane Maintenance Company)  
Case 19-CB-193946

Dear Parties:

We have carefully investigated and considered your charge that International Association of Machinists and Aerospace Workers, District Lodge 190, International Association of Machinists and Aerospace Workers, Local Union 1546 and International Association of Machinists and Aerospace Workers, District Lodge 160 have violated the National Labor Relations Act.

**Decision to Dismiss:** Your charge alleges that the International Association of Machinists and Aerospace Workers, District Lodge 190; Local Lodge 1546, and Local Lodge 160 (collectively, "IAM"), discriminated against you in connection with the IAM's distribution of settlement funds that the IAM received as part of a partial non-Board settlement in an unfair labor practice proceeding. The investigation revealed that the IAM entered into this settlement with your former employer to resolve, to the satisfaction of the Board, complex successor allegations in *PCMC/Pacific Crane Maintenance Company, Inc. etc.*, 362 NLRB No. 120 (June 17, 2015).

While the IAM's allocation of funds under the non-Board settlement did not provide money for every employee in the historical bargaining units, there was no evidence that the IAM's allocation of funds in those settlements involved any arbitrary, discriminatory, or bad faith considerations. In this regard, there is no evidence that the IAM's distribution was tainted by any animus specific to you, or animus based on your membership in a labor organization other than the IAM. Further, the IAM presented a reasonable basis for its allocation of settlement funds. Accordingly, further proceedings are not warranted and I am dismissing all of these charges in their entirety.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

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October 25, 2018

by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



RONALD K. HOOKS  
Regional Director

Enclosure

cc: International Association Of Machinists  
and Aerospace Workers,  
District Lodge 190  
8201 Capwell Drive  
Oakland, CA 94621-2111

International Association of Machinists  
And Aerospace Workers,  
District Lodge 160  
9135 15th Pl S  
Seattle, WA 98108-5100

**(b) (6), (b) (7)(C)**

International Association Of Machinists  
And Aerospace Workers, AFL-CIO,  
East Bay Automotive Machinists  
Lodge No. 1546  
10260 Macarthur Blvd  
Oakland, CA 94605-5199

Al Latham, Attorney At Law  
Paul Hastings LLP  
515 S Flower St FL 25  
Los Angeles, CA 90071-2228

International Association Of Machinists  
And Aerospace Workers,  
Local Union 1546  
10260 Macarthur Blvd  
Oakland, CA 94605-5199

Pacific Crane Maintenance Company  
250 West Wardlow Road  
Long Beach, CA 90807-4429

Daniel R. Morgan, Directing  
Business Representative  
International Association Of Machinists  
And Aerospace Workers,  
District Lodge 160  
9135 15th Pl S  
Seattle, WA 98108-5191

**(b) (6), (b) (7)(C)** C/O Lindsey Nicolas  
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1330 Broadway Suite 1450  
Oakland, CA 94612-2591

Re: Machinists District Lodge 190 & Local  
Lodge 1546 & Local Lodge 160  
(Pacific Crane Maintenance Company)  
Case 19-CB-193988

Dear Parties:

We have carefully investigated and considered your charge that International Association of Machinists and Aerospace Workers, District Lodge 160, International Association of Machinists and Aerospace Workers, District Lodge 190 and International Association of Machinists and Aerospace Workers, Local Union 1546 have violated the National Labor Relations Act.

**Decision to Dismiss:** Your charge alleges that the International Association of Machinists and Aerospace Workers, District Lodge 190; Local Lodge 1546, and Local Lodge 160 (collectively, "IAM"), discriminated against you in connection with the IAM's distribution of settlement funds that the IAM received as part of a partial non-Board settlement in an unfair labor practice proceeding. The investigation revealed that the IAM entered into this settlement with your former employer to resolve, to the satisfaction of the Board, complex successor allegations in *PCMC/Pacific Crane Maintenance Company, Inc. etc.*, 362 NLRB No. 120 (June 17, 2015).

While the IAM's allocation of funds under the non-Board settlement did not provide money for every employee in the historical bargaining units, there was no evidence that the IAM's allocation of funds in those settlements involved any arbitrary, discriminatory, or bad faith considerations. In this regard, there is no evidence that the IAM's distribution was tainted by any animus specific to you, or animus based on your membership in a labor organization other than the IAM. Further, the IAM presented a reasonable basis for its allocation of settlement funds. Accordingly, further proceedings are not warranted and I am dismissing all of these charges in their entirety.

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Very truly yours,



RONALD K. HOOKS  
Regional Director

Enclosure

cc: Daniel R. Morgan,  
Directing Business Representative  
International Association Of Machinists  
And Aerospace Workers,  
District Lodge 160  
9135 15th Pl S  
Seattle, WA 98108-5191

International Association of Machinists  
And Aerospace Workers,  
Local Union 1546  
10260 Macarthur Blvd  
Oakland, CA 94605-5199

International Association of Machinists  
And Aerospace Workers,  
District Lodge 160  
9135 15th Pl S  
Seattle, WA 98108-5100

Al Latham, Attorney At Law  
Paul Hastings LLP  
515 S Flower St Fl 25  
Los Angeles, CA 90071-2228

International Association of Machinists  
And Aerospace Workers,  
District Lodge 190  
8201 Capwell Drive  
Oakland, CA 94621-2111

Pacific Crane Maintenance Company  
250 West Wardlow Road  
Long Beach, CA 90807-4429

(b) (6), (b) (7)(C)  
International Association Of Machinists  
And Aerospace Workers, AFL-CIO,  
East Bay Automotive  
Machinists Lodge No. 1546  
10260 Macarthur Blvd  
Oakland, CA 94605-5199

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Leonard Carder LLP  
1330 Broadway Ste 1450  
Oakland, CA 94612-2591

Re: Machinists District Lodge 190 & Local  
Lodge 1546 & Local Lodge 160  
(Pacific Crane Maintenance Company)  
Case 19-CB-194004

Dear Parties:

We have carefully investigated and considered your charge that International Association of Machinists and Aerospace Workers, District Lodge 190, International Association of Machinists and Aerospace Workers, Local Union 1546 and International Association of Machinists and Aerospace Workers, District Lodge 160 have violated the National Labor Relations Act.

**Decision to Dismiss:** Your charge alleges that the International Association of Machinists and Aerospace Workers, District Lodge 190; Local Lodge 1546, and Local Lodge 160 (collectively, "IAM"), discriminated against you in connection with the IAM's distribution of settlement funds that the IAM received as part of a partial non-Board settlement in an unfair labor practice proceeding. The investigation revealed that the IAM entered into this settlement with your former employer to resolve, to the satisfaction of the Board, complex successor allegations in *PCMC/Pacific Crane Maintenance Company, Inc. etc.*, 362 NLRB No. 120 (June 17, 2015).

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Very truly yours,



RONALD K. HOOKS  
Regional Director

Enclosure

cc: International Association of Machinists  
And Aerospace Workers,  
District Lodge 190  
8201 Capwell Drive  
Oakland, CA 94621-2111

Daniel R. Morgan,  
Directing Business Representative  
International Association of Machinists  
And Aerospace Workers,  
District Lodge 160  
9135 15th Pl S  
Seattle, WA 98108-5191

(b) (6), (b) (7)(C)  
International Association Of Machinists  
And Aerospace Workers, AFL-CIO, East  
Bay Automotive Machinists  
Lodge No. 1546  
10260 Macarthur Blvd  
Oakland, CA 94605-5199

International Association of Machinists  
And Aerospace Workers,  
District Lodge 160  
9135 15th Pl S  
Seattle, WA 98108-5100

International Association of Machinists  
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Local Union 1546  
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Oakland, CA 94612-2591

Re: Machinists District Lodge 190 & Local  
Lodge 1546 & Local Lodge 160  
(Pacific Crane Maintenance Company)  
Case 19-CB-194015

Dear Parties:

We have carefully investigated and considered your charge that International Association of Machinists and Aerospace Workers, District Lodge 190, International Association of Machinists and Aerospace Workers, Local Union 1546 and International Association of Machinists and Aerospace Workers, District Lodge 160 have violated the National Labor Relations Act.

**Decision to Dismiss:** Your charge alleges that the International Association of Machinists and Aerospace Workers, District Lodge 190; Local Lodge 1546, and Local Lodge 160 (collectively, "IAM"), discriminated against you in connection with the IAM's distribution of settlement funds that the IAM received as part of a partial non-Board settlement in an unfair labor practice proceeding. The investigation revealed that the IAM entered into this settlement with your former employer to resolve, to the satisfaction of the Board, complex successor allegations in *PCMC/Pacific Crane Maintenance Company, Inc. etc.*, 362 NLRB No. 120 (June 17, 2015).

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Case 19-CB-194015

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RONALD K. HOOKS  
Regional Director

Enclosure

cc: International Association Of Machinists  
And Aerospace Workers,  
District Lodge 190  
8201 Capwell Drive  
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International Association Of Machinists  
And Aerospace Workers,  
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Re: Machinists District Lodge 190 & Local  
Lodge 1546 & Local Lodge 160  
(Pacific Crane Maintenance Company)  
Case 19-CB-194017

Dear Parties:

We have carefully investigated and considered your charge that International Association of Machinists and Aerospace Workers, District Lodge 190, International Association of Machinists and Aerospace Workers, Local Union 1546 and International Association of Machinists and Aerospace Workers, District Lodge 160 have violated the National Labor Relations Act.

**Decision to Dismiss:** Your charge alleges that the International Association of Machinists and Aerospace Workers, District Lodge 190; Local Lodge 1546, and Local Lodge 160 (collectively, "IAM"), discriminated against you in connection with the IAM's distribution of settlement funds that the IAM received as part of a partial non-Board settlement in an unfair labor practice proceeding. The investigation revealed that the IAM entered into this settlement with your former employer to resolve, to the satisfaction of the Board, complex successor allegations in *PCMC/Pacific Crane Maintenance Company, Inc. etc.*, 362 NLRB No. 120 (June 17, 2015).

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**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required

October 25, 2018

by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



RONALD K. HOOKS  
Regional Director

Enclosure

cc: International Association of Machinists  
And Aerospace Workers,  
District Lodge 190  
8201 Capwell Drive  
Oakland, CA 94621-2111

Daniel R. Morgan,  
Directing Business Representative  
International Association Of Machinists  
And Aerospace Workers,  
District Lodge 160  
9135 15th Pl S  
Seattle, WA 98108-5191

(b) (6), (b) (7)(C)  
International Association Of Machinists  
And Aerospace Workers, AFL-CIO,  
East Bay Automotive Machinists Lodge  
No. 1546  
10260 Macarthur Blvd  
Oakland, CA 94605-5199

International Association Of Machinists  
And Aerospace Workers,  
District Lodge 160  
9135 15th Pl S  
Seattle, WA 98108-5100

International Association Of Machinists  
And Aerospace Workers,  
Local Union 1546  
10260 Macarthur Blvd  
Oakland, CA 94605-5199

Al Latham, Attorney At Law  
Paul Hastings LLP  
515 S Flower St Fl 25  
Los Angeles, CA 90071-2228

(b) (6), (b) (7)(C) C/O Lindsay Nicholas  
Leonard Carder LLP  
1188 Franklin St Ste 201  
San Francisco, CA 94109-6852

Pacific Crane Maintenance Company  
250 West Wardlow Road  
Long Beach, CA 90807-4429

GL



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October 18, 2018

DAVID A. ROSENFELD, ATTORNEY  
WEINBERG ROGER & ROSENFELD  
1001 MARINA VILLAGE PKY., STE. 200  
ALAMEDA, CA 94501-6430

Re: ILWU and ILWU Local 23  
(PMA/SSA Marine)  
Case 19-CB-217524

DEAR MR. ROSENFELD:

We have carefully investigated and considered your charge that ILWU Local 23 and ILWU, AFL-CIO have violated the National Labor Relations Act.

**Decision to Dismiss:** Your charge, filed on behalf of International Association of Machinists and Aerospace Workers, District Lodge 160 ("IAM"), alleges that the employer, SSA Marine, a Pacific Maritime Association ("PMA") member, unlawfully refused to recognize the IAM as the collective bargaining representative of employees at the Port of Tacoma, in Tacoma, Washington, and unlawfully extended recognition to the International Longshore and Warehouse Union ("ILWU").

In Cases 19-CA-197070 *et al.* you maintained that APM, also a PMA member and the prior operator of the terminal in question, unlawfully refused to recognize the IAM, and unlawfully extended recognition to the ILWU. Those cases were dismissed on February 26, 2018. While the cases were pending at the Office of Appeals, SSA assumed control of the APM Terminal and you filed the instant charges, alleging SSA had a bargaining obligation as a successor to APM. As the merit of these charges was wholly dependent on 19-CA-197070 *et al.* being overturned on appeal, the cases were placed in abeyance on April 19, 2018. On September 20, 2018, the Office of Appeals denied the merits of your appeal in Cases 19-CA-197070 *et al.* Accordingly, further proceedings are not warranted and I am dismissing these charges for the reasons discussed in the prior matter, which is controlling.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlrb.gov](http://www.nlrb.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.



Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **November 1, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than October 31, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 1, 2018**. The request may be filed electronically through the **E-File Documents** link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 1, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

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October 18, 2018

by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



RONALD K. HOOKS  
Regional Director

Enclosure

cc: DANIEL R. MORGAN, DIRECTING  
BUSINESS REPRESENTATIVE  
INTERNATIONAL ASSOCIATION OF  
MACHINISTS AND AEROSPACE  
WORKERS AFL-CIO, DISTRICT  
LODGE 160  
9135 15TH PL S  
SEATTLE, WA 98108-5191

(b) (6), (b) (7)(C)

INTERNATIONAL ASSOCIATION OF  
MACHINISTS AND AEROSPACE  
WORKERS, DISTRICT LODGE 190,  
LOCAL LODGE 1546, AFL-CIO  
10260 MACARTHUR BLVD  
OAKLAND, CA 94605-5199

DEAN MCGRATH, PRESIDENT  
ILWU LOCAL 23  
1306 ALEXANDER AVE E  
FIFE, WA 98424-1150

KIRSTEN DONOVAN, ATTORNEY  
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FLOOR  
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INTERNATIONAL  
LONGSHOREMEN'S &  
WAREHOUSEMEN'S UNION  
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SAN FRANCISCO, CA 94109-6800

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ROBERT LUXA  
SSA MARINE, INC.  
1980 MILWAUKEE WAY  
TACOMA, WA 98421-2702

JAMES J. MCMULLEN, ATTORNEY  
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JOSEPH P. SBUTTONI, ATTORNEY  
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SEATTLE, WA 98134-1108

lu



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October 31, 2018

(b) (6), (b) (7)(C)

Re: APWU Greater Seattle Area Local 28  
(United States Postal Service)  
Case 19-CB-223584

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that APWU Greater Seattle Area Local 28 has violated the National Labor Relations Act.

**Decision to Dismiss:** Your charge alleges that within the last six (6) months, APWU Local 28 ("Union") has violated its duty of fair representation. On further investigation, you alleged that the Union had failed to provide you with a written copy of the interview questions during an investigatory interview called by your Employer, and that the Union had failed to file a grievance on your behalf over alleged harassment by your supervisor, then misled you about the status of the grievance when you inquired. However, the investigation revealed that, although the investigatory interview in question was held by the Employer, not the Union, and the agreement between the Employer and the Union only required that the Employer provide the Union with a written copy of the interview questions prior to the interview, the Union representative attending the interview sat next to you and shared (b) (6) written copy of the questions with you. Regardless, this interview did not result in discipline. In addition, the investigation revealed that although the Union representative assured you by text message that (b) (6) could assist you with filing a grievance regarding harassment by your supervisor, and requested that you call back to discuss the matter in more detail, but you did not. When you later inquired about the status of your grievance against the supervisor and what "compensation" you would receive for it, the Union representative reasonably thought you were inquiring about another active grievance (b) (6) had filed on your behalf, through which (b) (6) was seeking a significant monetary make-whole remedy from the Employer, when (b) (6) responded that that grievance was at Step 2. In sum, the investigation revealed insufficient evidence to suggest that the Union had committed to filing a grievance over a harassment complaint as a result of your brief text message, without the requested follow-up by you, or that the Union intentionally misled you about the status of such a grievance. As such, further proceedings are not warranted at this time and I am refusing to issue a complaint in this matter.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **November 14, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 13, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 14, 2018**. The request may be filed electronically through the **E-File Documents** link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 14, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

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October 31, 2018

by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

A handwritten signature in black ink, reading "Ronald K. Hooks". The signature is fluid and cursive, with the first name "Ronald" and last name "Hooks" clearly legible.

RONALD K. HOOKS  
Regional Director

Enclosure

cc: Richard Bernardin, MVS Craft Director  
APWU Greater Seattle Area Local 28  
132 SW 153rd St  
Burien, WA 98166-2312

Willie Ellis, Manager  
United States Postal Service  
10700 27th Ave S  
Seattle, WA 98168-1831

Roderick D. Eves,  
Deputy Managing Counsel  
United States Postal Service  
(Law Department - NLRB Unit)  
1720 Market Street  
Room 2400  
Saint Louis, MO 63155-9948

GL



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October 31, 2018

(b) (6), (b) (7)(C)

Re: Laborers Local 242 (R.L. Alia Company)  
Case 19-CB-223621

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that Laborers Local 242 has violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

- 1) Click on E-File Documents;
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- 3) Follow the detailed instructions.

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appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

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Very truly yours,



RONALD K. HOOKS  
Regional Director

Enclosure

cc: MIKE WHITESIDE, PRESIDENT  
22323 PACIFIC HWY S  
DES MOINES, WA 98198-5104

NOEL MCMURTRAY, ATTORNEY  
PO BOX 52883  
BELLEVUE, WA 98015-2883

R.L. ALIA COMPANY GENERAL CONTRACTOR  
107 WILLIAMS AVE S  
RENTON, WA 98057-2149





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October 19, 2018

(b) (6), (b) (7)(C)

Re: Plumbers & Pipefitters Local 26  
(Diamond B Constructors)  
Case 19-CB-223967

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that PLUMBERS AND PIPEFITTERS LOCAL 26 has violated the National Labor Relations Act.

**Decision to Dismiss:** There was insufficient evidence to establish that the United Association of Plumbers and Pipefitters, Local 26 (Union), unlawfully failed to represent you by not filing a grievance over your discharge from Diamond B Constructors, Inc. ("Employer"). While a union owes employees a fair duty of representation with regard to disputes arising with the employer, it is afforded a wide range of reasonableness in carrying out this duty. Thus, absent a showing that its decision was based on arbitrary, irrelevant or discriminatory considerations, the mere failure or refusal of a union to process a grievance to arbitration is not unlawful. *See Vaca v. Sipes*, 386 U.S. 171 (1967); *Ford Motor Co. v. Huffman*, 345 U.S. 330 (1953). A union breaches its duty of fair representation when it arbitrarily ignores a meritorious grievance or processes it in a perfunctory fashion. *Vaca v. Sipes*, 386 U.S. at 191, 194; *SEIU Local 579*, 229 NLRB 692 (1977).

Here, the evidence established that the Employer discharged you on (b) (6), (b) (7)(C) 2018, for not following containment rules and for dropping a wrench from a height. Later that same day, you asked Union (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)) to file a grievance over your discharge. You testified that (b) (6), (b) (7)(C) stated (b) (6) would not file a grievance over your termination because you had been accused of safety violations by the (b) (6), (b) (7)(C) of the refinery. The investigation revealed that (b) (6), (b) (7)(C) did contact the Employer, which confirmed that you had been fired for witnessed safety violations. As such, there was no evidence that the Union acted in a discriminatory, arbitrary or perfunctory manner in refusing to file a grievance over your discharge on (b) (6), (b) (7)(C) 2018. Accordingly, further proceedings are not warranted and I am refusing to issue a complaint in this matter.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

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**Appeal Due Date:** The appeal is due on **November 2, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 1, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

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by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

A handwritten signature in black ink that reads "Ronald K. Hooks". The signature is written in a cursive, flowing style.

RONALD K. HOOKS  
Regional Director

WW

Enclosure

cc: JEFF LIPPERT, BUSINESS AGENT  
PLUMBERS AND PIPEFITTERS  
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MICHEL MICHNO, CEO  
DIAMOND B CONSTRUCTORS, INC.  
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October 23, 2018

Robert Braun, Labor Consultant  
Braun Consulting Group  
1415 2nd Ave., Unit 909  
Seattle, WA 98101-2032

Re: Teamsters Local Union No. 81,  
International Brotherhood of Teamsters  
(Oak Harbor Freight Lines, Inc.)  
Case 19-CB-225028

Dear Mr. Braun:

We have carefully investigated and considered your charge that Teamsters Local Union No. 81, International Brotherhood of Teamsters has violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

The charge, filed by Oak Harbor Freight Line, Inc. ("Employer"), alleges that Teamsters Local Union No. 81 ("Union") violated Sections 8(b)(1)(A), 8(b)(2), 8(b)(3), and 8(d) of the National Labor Relations Act by unilaterally changing the seniority and bidding terms of employees under the parties' expired collective bargaining agreement, and that this action denied the rights of junior workers under the status quo. The investigation revealed that the Union filed a grievance on behalf of a more senior employee seeking to have a route assigned to that employee instead of the more junior employee the route was awarded to. During the processing of the grievance, the Union and the Employer disagreed about which sections of the expired collective bargaining agreement control the bumping rules for routes that have been vacated. There is insufficient evidence to show that the Union's filing of the grievance unilaterally changed employees' working conditions, the seniority list, or the junior employee's awarded route. The Union and Employer may agree to modifications of the status quo, including through grievance resolutions, and the Union's filing of a grievance does not undermine collective bargaining between the parties.

Further, union action that causes detriment to an individual employee in that individual's employment does not violate Section 8(b)(2) if it is consistent with nondiscriminatory provisions of a contract negotiated for the benefit of the total bargaining unit or if it is for some other legitimate purpose. In this case, the Union and Employer disagree about how seniority provisions in the contract apply to certain "bumping" rights, but there is insufficient evidence of an unlawful or illegitimate purpose.

There is also insufficient evidence to establish that the Union's filing of the grievance, or its representations to the Employer about the basis for its grievance, coerced employees in the exercise of their Section 7 rights. Accordingly, further proceedings are not warranted and I am dismissing the charge.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.


**Appeal Due Date:** The appeal is due on **November 6, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 5, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 6, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 6, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

RONALD K. HOOKS  
Regional Director

By:   
JESSICA DIETZ  
Officer in Charge

Enclosure

cc: Thomas G. Strickland, Secretary-Treasurer  
Teamsters Local Union No. 81  
1874 NE 162nd Ave.  
Portland, OR 97230-5642  
  
Oak Harbor Freight Lines, Inc.  
9026 NE 13th Ave.  
Portland, OR 97211-1673



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 19  
915 2nd Ave Ste 2948  
Seattle, WA 98174-1006

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (206)220-6300  
Fax: (206)220-6305

October 31, 2018

(b) (6), (b) (7)(C)

Re: UNITE HERE! Local 8  
(Compass One, LLC)  
Case 19-CB-225513

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that UNITE! HERE Local 8 has violated the National Labor Relations Act.

**Decision to Dismiss:** Your charge alleges that Unite HERE Local 8 ("Union") violated Section 8(b)(1)(A) of the Act by failing or refusing to file or process a grievance on your behalf concerning your termination from employment for arbitrary, discriminatory and/or unlawful reasons by Compass One LLC ("Compass"). The investigation revealed that the Union filed a grievance covering your termination, requested and received documents from Compass related to your discharge, investigated your grievance, and met with Compass on two occasions to discuss your discharge. The investigation also revealed that you attended at least one of those two meetings with Compass. While the Union processed your grievance to the third step of the grievance process, the Union recently determined in good faith that your termination grievance lacked merit and should not proceed to arbitration. Since insufficient evidence exists to establish that the Union violated the Act as alleged, further proceedings are not warranted and I am dismissing your charge.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlrb.gov](http://www.nlrb.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

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**Appeal Due Date:** The appeal is due on **November 14, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 13, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 14, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 14, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

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Very truly yours,



RONALD K. HOOKS  
Regional Director

Enclosure



cc: LUCIA FLUGENCIO, UNION ORGANIZER  
UNITE! HERE LOCAL 8  
2800 1ST AVE, STE 3  
SEATTLE, WA 98121

LAURA EWAN, ATTORNEY  
SCHWERIN CAMPBELL BARNARD IGLITZIN AND  
LAVITT, LLP  
18 W MERCER ST STE 400  
SEATTLE, WA 98119-3971

DIANE KRISTEN, SENIOR LABOR COUNSEL  
COMPASS ONE, COMPASS GROUP NORTH  
AMERICA  
2400 YORKMONT RD  
CHARLOTTE, NC 28217-4511

ASHLEIGH CIULLA, ATTORNEY  
COMPASS GROUP USA  
2400 YORKMONT RD  
CHARLOTTE, NC 28217



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

SUBREGION 36  
Green-Wyatt Federal Building  
1220 SW 3rd Avenue, Suite 605  
Portland, OR 97204-2170

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Telephone: (503)326-3085  
Fax: (503)326-5387

October 4, 2018

(b) (6), (b) (7)(C)

Re: Teamsters Local Union No. 305,  
International Brotherhood of Teamsters  
(Northwest Packing Co.)  
Case 19-CB-225896

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that Teamsters Local Union No. 305, International Brotherhood of Teamsters has violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

Your charge alleges that Teamsters Local Union No. 305, International Brotherhood of Teamsters ("Union"), failed to initiate a termination grievance on your behalf for reasons that are arbitrary, discriminatory or capricious. The investigation revealed that you contacted the Union after you received notification of your termination. The Union then conducted an investigation into the events surrounding your termination. Based on conversations with you, information it received from your employer, a review of the collective bargaining agreement, and review of the relevant attendance policy and documents pertaining to your attendance, the Union determined that a grievance contesting your termination would be unsuccessful. The Union proceeded to advise you that it could not help you.

In processing a grievance, a union retains broad discretion in disposing of a grievance short of arbitration and the violation turns not on the merits of the grievance, but rather, on whether the union exercised its discretion in a perfunctory or arbitrary manner. *Vaca v. Sipes*, 386 U.S. 171, 64 (1967). As the Union investigated your termination and concluded that it would not win on the merits, there is insufficient evidence that the Union acted in an arbitrary, discriminatory, or capricious manner by failing to file a grievance on your behalf. Therefore, further proceedings are not warranted and I am dismissing your charge.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **October 18, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than October 17, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before October 18, 2018**. The request may be filed electronically through the **E-File Documents** link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after October 18, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required


Teamsters Local Union No. 305,  
International Brotherhood of Teamsters  
(Northwest Packing Co.)  
Case 19-CB-225896

- 3 - October 4, 2018

by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

RONALD K. HOOKS  
Regional Director

By:   
JESSICA DIETZ  
Officer in Charge

Enclosure

cc: Paul Hays, Attorney  
10300 SW Greenburg Rd., Ste. 310  
Portland, OR 97223-5489

Teamsters Local Union No. 305  
1870 NE 162nd Ave.  
Portland, OR 97230-5642

Gale Baird, Regional Director  
Northwest Packing Co.  
PO Box 30  
Vancouver, WA 98660-1067



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 19  
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Seattle, WA 98174-1006

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (206)220-6300  
Fax: (206)220-6305

October 2, 2018

(b) (6), (b) (7)(C)

**Re: INTERNATIONAL BROTHERHOOD  
OF ELECTRICAL WORKERS,  
LOCAL 46 (NO EMPLOYER)  
Case 19-CB-225999**

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that International Brotherhood of Electrical Workers, Local 46 has violated the National Labor Relations Act.

**Decision to Dismiss:** The charge you filed alleges that the Union discriminatorily refused to refer you to employers from its exclusive hiring hall. However, you have failed to present any evidence in support of your charge. It is incumbent upon a Charging Party to cooperate with the Regional investigation and to provide evidence supporting the allegations. Failure to cooperate and present such evidence constitutes a basis for dismissal.

The Board agent assigned to your charge scheduled an appointment with you to take your sworn testimony on August 28, 2018, but you failed to appear for the appointment. Despite repeated phone calls and emails from the Board agent asking you to reschedule the appointment, you did not do so. A subsequent Board agent then scheduled another appointment with you to provide sworn testimony on September 20, 2018, but you again failed to appear. Although the Board agent again left you messages by phone and email requesting you to reschedule, you did not do so. On September 20, 2018, the Board sent you another email requesting your cooperation and the provision of evidence by September 28, 2018. In that email, as well as one sent on August 31, 2018, the Board Agent notified you that if you failed to fulfill your obligation to timely present evidence in support of your charge, the charge would be dismissed and this letter would result. Notwithstanding these efforts by the Region and the investigating Board agents, you have failed to fulfill your obligation to cooperate in the investigation and provide evidence supporting your allegations. Under these circumstances, I find that further proceedings in this matter are not warranted.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlrb.gov](http://www.nlrb.gov) and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

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The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **October 16, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than October 15, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before October 16, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after October 16, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

**Confidentiality:** We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to

keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

A handwritten signature in black ink that reads "Ronald K. Hooks". The signature is written in a cursive, flowing style.

RONALD K. HOOKS  
Regional Director

Enclosure

cc: BUD ALLBERY  
BUSINESS MANAGER  
INT'L. BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL 46  
19802 62ND AVE S STE 105  
KENT, WA 98032-1140

DAVID A. HANNAH, ATTORNEY  
LAW OFFICES OF DAVID A. HANNAH  
520 OCCIDENTAL AVE S UNIT 1013  
SEATTLE, WA 98104-6822

klm



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

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Seattle, WA 98174-1006

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (206)220-6300  
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October 24, 2018

TIMOTHY A. GARNETT, ATTORNEY  
OGLETREE DEAKINS NASH SMOAK  
& STEWART, P.C.  
7700 BONHOMME AVE STE 650  
SAINT LOUIS, MO 63105-0030

**Re: International Longshore & Warehouse  
Union, Local 19  
(Kinder Morgan Products Pipeline)  
Case 19-CB-226412**

Dear Mr. Garnett:

We have carefully investigated and considered your charge that International Longshore and Warehouse Union, Local 19 has violated the National Labor Relations Act.

**Decision to Dismiss:** The investigation revealed that Charging Party Kinder Morgan Products Pipeline ("KMPP") operates a terminal at Harbor Island in Seattle, where it is engaged in the storage and transportation of liquid fuel products through pipelines and other transportation modes. It employs at that terminal approximately 12 employees and one area manager, the only supervisor on-site. None of the employees are represented by Charged Party ILWU Local 19 ("Union") or any labor organization, and have never been represented by any labor organization.

Kinder Morgan Bulk Terminals ("KMBT") operates a dry bulk terminal at the Port of Portland in Portland, Oregon, where it is engaged in the storage and transportation of solid products. KMBT employs workers who have been represented by various ILWU locals since at least 1998. Other than having the same corporate parent in Kinder Morgan, the two entities have separate management, supervision, employees, labor relations policies, and perform different types of work. KMBT is a member of the Pacific Maritime Association ("PMA"), a multi-employer bargaining association comprised of marine terminal operators, stevedoring and related companies on the West Coast. The PMA and ILWU are parties to a collective-bargaining agreement known as the Pacific Coast Clerks' and Longshore Agreement, which includes the Pacific Coast Longshore Contract Document ("PCLCD"). Charging Party KMPP is not and never has been a member of the PMA.

The Union filed grievances in the form of lost work wage claims alleging that work performed by KMPP's nonunion personnel involving the transfer of liquid cargo from marine vessels violated the PCLCD. The Union alleged that the work performed fell within its jurisdiction and KMPP therefore should have hired Union-represented longshore employees to perform that work. The Union filed the grievances against "Kinder Morgan Terminals."



After the Union demanded arbitration of the grievances, an arbitration was held on September 5, 2018. On October 16, 2018, the arbitration panel found that KMPP had violated the collective-bargaining agreement; the lost opportunity claims must be paid; and proper manning shall be determined by the Joint Port Labor Relations Committee, a quasi-judicial body comprised of an equal number of PMA and ILWU officials. The investigation revealed no evidence of picketing, threats of picketing, or other adverse economic actions beyond the grievances. There was also no evidence presented of any prior Board determination with respect to which group of employees is entitled to perform the work that was in dispute between the parties.

Although the Charging Party asserts that the Union has violated §§ 8(b)(1)(A) and (2) by seeking to compel, through arbitration, the accretion of its nonunion employees into an existing bargaining unit represented by the Union, the evidence is insufficient to establish such a violation. The Union's contractual grievance and arbitration demands constitute a demand to perform the *work*, not a demand to represent the Charging Party's employees whether through accretion or recognition. Moreover, those work demands cannot be viewed as the Union unlawfully seeking to extend the terms of the PCLCD (including the union-security clause) to the nonunion employees in the absence of any additional evidence beyond the contractual demands. Rather, the demands are properly viewed as the Union's contention that the work performed is covered by the PCLCD and the damages to which the Union-represented employees are entitled should be measured by the wage rates set forth in that contract.

Furthermore, the Charging Party's reliance on *Teamsters Local 89 (United Parcel Service)*, 346 NLRB 484 (2006), is misplaced. In that case the charged party union had executed and maintained a collective-bargaining agreement that extended the nationwide bargaining unit it represented to include clerk auditors, who had historically been excluded from the unit, without any expression of a desire by a majority of those employees to be represented. The Board found that, in those circumstances, the Union had violated §§ 8(b)(1)(A) and (2) by unlawfully accreting them into the unit. Although Charging Party KMPP argues that its unrepresented employees have never been included in the Union's bargaining unit and a majority of them has never expressed a desire to be included in that unit, its argument fails because the Union's grievance demand here does not require the accretion of employees, whereas the execution of a collective-bargaining agreement that added the employees to the unit by the union in the other case clearly does so.

Accordingly, further proceedings are not warranted and I am declining to issue a complaint in this matter.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

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**Appeal Due Date:** The appeal is due on **November 7, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 6, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 7, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 7, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

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International Longshore & Warehouse  
Union, Local 19 (Kinder Morgan Products  
Pipeline)  
Case 19-CB-226412

- 4 -

by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

A handwritten signature in black ink, reading "Ronald K. Hooks". The signature is fluid and cursive, with the first name "Ronald" and last name "Hooks" clearly legible.

RONALD K. HOOKS  
Regional Director

Enclosure

cc: RICHARD AUSTIN  
LOCAL PRESIDENT  
INTERNATIONAL LONGSHORE AND  
WAREHOUSE UNION, LOCAL 19  
3440 E MARGINAL WAY S  
SEATTLE, WA 98134-1132  
  
KINDER MORGAN PRODUCTS  
PIPELINE  
2720 13TH AVE SW  
SEATTLE, WA 98134-1040

klm



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 19  
915 2nd Ave Ste 2948  
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Agency Website: [www.nlr.gov](http://www.nlr.gov)  
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October 31, 2018

MICHAEL T. GARONE, ESQ.  
SCHWABE WILLIAMSON & WYATT  
1211 SW 5TH AVE STE 1600  
SUITES 1600-1900 PACWEST CTR  
PORTLAND, OR 97204-3795

THOMAS M. TRIPLETT, ESQ.  
SCHWABE WILLIAMSON & WYATT  
1211 SW 5TH AVE-STE. 1900  
PORTLAND, OR 97204-3719

TIMOTHY J. O'CONNELL, ATTORNEY  
STOEL RIVES, LLP  
600 UNIVERSITY ST, STE 3600  
SEATTLE, WA 98101-4109

Re: International Brotherhood of Electrical  
Workers, Local 48 (ICTSI Oregon)  
Case 19-CD-080738

Dear Mr. Garone, Mr. Triplett and Mr. O'Connell:

We have carefully investigated and considered your charge that International Brotherhood of Electrical Workers, Local 48, has violated the National Labor Relations Act.

**Decision to Dismiss:** I am dismissing your charge because further proceedings are not warranted in light of the Decision and Determination of Dispute in, *International Brotherhood of Electrical Workers, Local 48, AFL-CIO and ICTSI Oregon, Inc. and International Longshore and Warehouse Union, Local 8 AFL-CIO*, 358 NLRB No. 02 (2012).

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

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Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on **November 15, 2018**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 14, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 15, 2018**. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 15, 2018, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

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Very truly yours,

RONALD K. HOOKS  
Regional Director

Enclosure/pr

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October 31, 2018

DOUGLAS S. PARKER, ATTORNEY  
LITTLER MENDELSON, PC  
500 L ST, SUITE 201  
ANCHORAGE, AK 99501-5902

Re: ILWU, Alaska Longshore Division  
(American President Lines, Ltd.)  
Case 19-CD-225672

Dear Mr. Parker:

We have carefully investigated and considered your charge that ILWU, Alaska Longshore Division has violated the National Labor Relations Act.

**Decision to Partially Dismiss:** The charge alleged, inter alia, that the Charged Party Union violated § 8(b)(1)(A) by picketing on August 9, 2018, with an object of forcing the Charging Party employer to assign certain work at the Port of Kodiak to employees who are members of the Charged Party Union rather than to employees who are members of another labor organization. The investigation revealed that Union agents with picket signs appeared for approximately 3 hours on the morning of August 9 near a barge that was scheduled to be loaded with cargo at Pier II of the Port of Kodiak in Kodiak, Alaska. Although cargo loading did not occur that morning due to the picketing activity, the investigation did not reveal any picket line misconduct, mass picketing, or incidents of violence engaged in by the picketers. Moreover, the investigation did not reveal any further incidents of picketing activity engaged in by the Charged Party Union.

Even assuming that the Union engaged in the picketing with an object alleged in the charge, such conduct alone would not constitute a violation of § 8(b)(1)(A). Furthermore, the Charging Party failed to present sufficient evidence showing that the picketers engaged in conduct that coerced employees in the exercise of their rights protected by § 7 of the Act. Accordingly, further proceedings with respect to the § 8(b)(1)(A) allegation of the charge are not warranted and I am declining to issue complaint with respect to that. The remaining § 8(b)(4)(D) allegation of the charge remains outstanding and subject to further processing.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:



- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at [www.nlr.gov](http://www.nlr.gov). You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

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October 31, 2018

by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

A handwritten signature in black ink that reads "Ronald K. Hooks". The signature is written in a cursive, flowing style.

RONALD K. HOOKS  
Regional Director

Enclosure

cc: DENNIS YOUNG, PRESIDENT  
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October 31, 2018

DOUGLAS S. PARKER, ATTORNEY  
LITTLER MENDELSON, PC  
500 L ST, STE 201  
ANCHORAGE, AK 99501-5902

Re: ILWU, Unit 222 (American President  
Lines, Ltd.)  
Case 19-CD-225674

Dear Mr. Parker:

We have carefully investigated and considered your charge that ILWU, Unit 222 has violated the National Labor Relations Act.

**Decision to Partially Dismiss:** The charge alleged, inter alia, that the Charged Party Union violated § 8(b)(1)(A) by picketing on August 9, 2018, with an object of forcing the Charging Party employer to assign certain work at the Port of Kodiak to employees who are members of the Charged Party Union rather than to employees who are members of another labor organization. The investigation revealed that Union agents with picket signs appeared for approximately 3 hours on the morning of August 9 near a barge that was scheduled to be loaded with cargo at Pier II of the Port of Kodiak in Kodiak, Alaska. Although cargo loading did not occur that morning due to the picketing activity, the investigation did not reveal any picket line misconduct, mass picketing, or incidents of violence engaged in by the picketers. Moreover, the investigation did not reveal any further incidents of picketing activity engaged in by the Charged Party Union.

Even assuming that the Union engaged in the picketing with an object alleged in the charge, such conduct alone would not constitute a violation of § 8(b)(1)(A). Furthermore, the Charging Party failed to present sufficient evidence showing that the picketers engaged in conduct that coerced employees in the exercise of their rights protected by § 7 of the Act. Accordingly, further proceedings with respect to the § 8(b)(1)(A) allegation of the charge are not warranted and I am declining to issue complaint with respect to that. The remaining § 8(b)(4)(D) allegation of the charge remains outstanding and subject to further processing.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

October 31, 2018

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

- 1) Click on E-File Documents;
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October 31, 2018

by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



RONALD K. HOOKS  
Regional Director

Enclosure

cc: MIKE MIZELL, TERMINAL MANAGER  
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727 SHELIKOF ST  
KODIAK, AK 99615-6055

**(b) (6), (b) (7)(C)**

ILWU, UNIT 222  
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AMY S ENDO  
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EMILY M MAGLIO, ATTORNEY  
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October 24, 2018

TIMOTHY A. GARNETT, ATTORNEY  
OGLETREE DEAKINS NASH SMOAK  
& STEWART, PC  
7700 BONHOMME AVENUE STE 650  
ST. LOUIS, MO 63105

**Re: ILWU Local 19  
(Kinder Morgan Products Pipeline)  
Case 19-CD-226797**

Dear Mr. Garnett:

We have carefully investigated and considered your charge that ILWU LOCAL 19 has violated the National Labor Relations Act.

**Decision to Dismiss:** I am declining to issue a notice of hearing, as provided in Section 10(k) of the Act, and I am dismissing your charge for the reasons discussed below.

The investigation revealed that Charging Party Kinder Morgan Products Pipeline ("KMPP") operates a terminal at Harbor Island in Seattle, where it is engaged in the storage and transportation of liquid fuel products through pipelines and other transportation modes. It employs at that terminal approximately 12 employees and one area manager, the only supervisor on-site. None of the employees are represented by Charged Party ILWU Local 19 ("Union") or any labor organization, and have never been represented by any labor organization.

Kinder Morgan Bulk Terminals ("KMBT") operates a dry bulk terminal at the Port of Portland in Portland, Oregon, where it is engaged in the storage and transportation of solid products. KMBT employs workers who have been represented by various ILWU locals since at least 1998. Other than having the same corporate parent in Kinder Morgan, the two entities have separate management, supervision, employees, labor relations policies, and perform different types of work. KMBT is a member of the Pacific Maritime Association ("PMA"), a multi-employer bargaining association comprised of marine terminal operators, stevedoring and related companies on the West Coast. The PMA and ILWU are parties to a collective-bargaining agreement known as the Pacific Coast Clerks' and Longshore Agreement, which includes the Pacific Coast Longshore Contract Document ("PCLCD"). Charging Party KMPP is not and never has been a member of the PMA.

The Union filed grievances in the form of lost work wage claims alleging that work performed by KMPP's nonunion personnel involving the transfer of liquid cargo from marine vessels violated the PCLCD. The Union alleged that the work performed fell within its jurisdiction and, therefore, KMPP should have hired Union-represented longshore employees to perform that work. The Union filed the grievances against "Kinder Morgan Terminals."

After the Union demanded arbitration of the grievances, an arbitration was held on September 5, 2018. On October 16, 2018, the arbitration panel found that KMPP had violated the collective-bargaining agreement; the lost opportunity claims must be paid; and proper manning shall be determined by the Joint Port Labor Relations Committee, a quasi-judicial body comprised of an equal number of PMA and ILWU officials. The investigation revealed no evidence of picketing, threats of picketing, or other adverse economic actions beyond the grievances. There was also no evidence presented of any prior Board determination with respect to which group of employees is entitled to perform the work that was in dispute between the parties.

Although the Charging Party asserts that the Union has pursued its grievance and arbitration demands with an objective of forcing KMPP to assign the work to employees represented by the Union or to recognize the Union as the bargaining representative of the employees performing the disputed work, the evidence presented is insufficient to establish that the Union has engaged in activity with an unlawful objective in violation of § 8(b)(4)(D). In the absence of any evidence of picketing or threats of picketing, there is insufficient evidence of any unlawful restraint or coercion to establish a *prima facie* violation of § 8(b)(4)(D) to warrant the invocation of the Board's § 10(k) jurisdiction. Moreover, as the Board has not issued a 10(k) determination awarding the work, the Union's pursuit of its contractual grievance and arbitration demands claiming the work does not violate the Act. *See, e.g., Longshoremen ILWU Local 7 (Georgia-Pacific)*, 291 NLRB 89, 92-93 (1988), *enfd.* 892 F.2d 130 130 (D.C. Cir. 1989.).

Accordingly, further proceedings are not warranted and I am declining to issue a complaint in this matter.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing:** An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at [www.nlr.gov](http://www.nlr.gov) and:

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The appeal **MAY NOT** be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

**Appeal Due Date:** The appeal is due on November 7, 2018. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 6, 2018. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before** November 7, 2018. The request may be filed electronically through the *E-File Documents* link on our website [www.nlr.gov](http://www.nlr.gov), by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 7, 2018, **even if it is postmarked or given to the delivery service before the due date.** Unless filed electronically, a copy of the extension of time should also be sent to me.

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Very truly yours,



RONALD K. HOOKS  
Regional Director

Enclosure

cc: RICH AUSTIN, LOCAL PRESIDENT  
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