

To: Teamster Local Union No. 2118

From: Sean M. O'Brien, General President

Date: January 14, 2025

Re: Disciplinary Action Against Former Officers of Teamsters Local Union No. 2118

Introduction

Pursuant to Article XIX, Section 11 of the International Brotherhood of Teamsters ("IBT") Constitution, I, General President Sean M. O'Brien appointed a panel of representatives to evaluate the disciplinary charges brought by Gregory Unterseher (the "Charging Party" or "Trustee Unterseher"), the Temporary Trustee of Teamsters Local Union No. 2118 ("Local 2118" or the "Local"), against Andrew Robles, Ryan Fogelsanger, Joshua Rockwood, Kurt Hanson, Michael Cawley, and Kenneth Seiden, all former members and officers of Local 2118 (the "Charged Parties").¹ The Hearing Panel (the "Panel") consisted of Brother Darel Hardenbrook ("Chair Hardenbrook"), Brother James DeWeese ("Brother Deweese"), and Brother Tim Vera ("Brother Vera"). IBT Staff Attorney Willie Burden served as counsel to the Panel.

On August 2, 2024,² Trustee Unterseher filed charges against Andrew Robles ("Brother Robles"), Ryan Fogelsanger ("Brother Fogelsanger"), Joshua Rockwood ("Brother Rockwood"), Kurt Hanson ("Brother Hanson"), Michael Cawley ("Brother Cawley"), and Kenneth Seiden ("Brother Seiden").³ The charges alleged that Brother Robles devised, implemented, and subsequently attempted to improperly conceal a scheme to embezzle approximately \$982,437.70 from Local 2118 in the form of an unlawful disguised salary. The charges further alleged that this unlawful scheme was aided and abetted by the other Charged Parties, and that after the Local's then-Secretary-Treasurer, Ryan Joseph ("Brother Joseph"), alerted the IBT to this wrongdoing, the Charged Parties attempted to retaliate against him.

I convened a hearing on the charges at the Hampton Inn Tropicana and Event Center, located at 4975 South Dean Martin Drive, Las Vegas, Nevada on October 29 and 30, 2024.⁴ The Charged Parties were duly notified of the hearing in a notice issued on September 13, 2024.⁵

¹Pursuant to Article VI, Section 5(a) of the IBT Constitution, I placed Local 2118 into an emergency trusteeship on March 19, 2024. The Local's entire Executive Board was thereby removed from office on that day, and Trustee Unterseher was installed as the Temporary Trustee. Six of those former officers are the Charged Parties in this proceeding.

² All dates are in 2024 unless otherwise specified.

³ Trustee Unterseher filed five charges against Brother Robles and two against each of the remaining Charged Parties.

⁴Charged Parties Brother Hanson and Brother Seiden participated in the hearing remotely, via Zoom, at their own request. Chair Hardenbrook ensured that both were fully enabled to participate in the proceedings and received electronic copies of all exhibits admitted into the record.

⁵Article XIX, Section 1(c) of the IBT Constitution requires that a party be given at least ten (10) days' notice of disciplinary charges brought against him. This requirement was satisfied here. Furthermore, no particular form of notice is necessary under federal law, provided the document "inform[s] those concerned of the date and time of the hearing." *Morris v. Hoffa*, 361 F.3d 177, 187 (3d Cir. 2004). This requirement was also satisfied here.

Having carefully reviewed the Panel's recommendation I find that Trustee Unterseher substantiated Charges One, Two, Four, and Five to the extent set forth below. I therefore recommend that these Charges be upheld.

Background

The Charged Parties are all currently pilots at Allegiant Air ("Allegiant"). They were formerly members and officers of Local 2118, located in Las Vegas, Nevada, which represents approximately 1,200 Allegiant pilots. By way of background, in January 2024, after receiving a series of internal complaints, General Secretary-Treasurer Fred Zuckerman dispatched an audit team to investigate Local 2118's financial and governance practices. Having uncovered a pattern of errors, omissions, and oversights, the audit team concluded that Local 2118's officers were failing to administer the Local in accordance with the IBT Constitution and the Local's Bylaws. Based on these findings, I placed the Local in emergency trusteeship in accordance with Article VI, Section 5(a) of the IBT Constitution. I appointed Trustee Greg Unterseher as Temporary Trustee.

I convened a hearing to determine whether to ratify the trusteeship in April 2024. Because the trusteeship was imposed on the basis of the financial improprieties and malfeasance of Local 2118's officers. The issues in dispute at that hearing were nearly identical to those under consideration here. Following the trusteeship hearing, the Trusteeship Hearing Panel unanimously recommended continuing the trusteeship. Specifically, it concluded that "Robles exorbitantly increased his own salary by manipulating the collective bargaining agreement's provisions," that "Local 2118's officers were dishonest and incompetent," and that "establishing a trusteeship over the Local's affairs was necessary to correct corruption and financial malpractice."⁶ In June 2024, I fully adopted these findings and recommendations and ordered that the trusteeship remain in effect.

Subsequently, in August 2024, Trustee Unterseher filed the instant Charges against Brother Robles, Brother Fogelsanger, Brother Rockwood, Brother Hanson, Brother Cawley, and Brother Seiden under Article XIX of the IBT Constitution. I find the present Charges are predicated largely on the misconduct that had triggered the trusteeship, supplemented by additional details Trustee Unterseher's team uncovered in the course of attempting to sort the Local's affairs.

Discussion

As an initial matter, I find that the Charged Parties were accorded all the process to which they were entitled under the IBT Constitution and federal law. Article XIX, Section 1(c) of the IBT Constitution allows an accused party to appear in person and with witnesses to present a defense. In addition, Section 411(a)(5)(C) of the Labor Management Reporting and Disclosure Act ("LMRDA"),⁷ a federal statute governing internal union procedures, requires that union members be afforded a "full and fair hearing" in disciplinary proceedings.⁸ This provision has been interpreted to incorporate "the traditional concepts of due process," meaning the right to

⁶ Tr., 40: 12-15; 16-19.

⁷ Pub. L. No. 86-257, 73 Stat. 519, codified as amended at 29 U.S.C. §§ 401-531.

⁸ 29 U.S.C. § 411(a)(5)(C).

confront witnesses, produce evidence, and proceed before an impartial tribunal.⁹ Here, the Charged Parties were fully enabled to confront witnesses and produce evidence; they extensively cross-examined each of the Charging Party's witnesses and introduced over two dozen evidentiary exhibits into the record. Moreover, they make no allegation that the Panel was in any respect biased. Thus, I find that the procedural requirements set forth in the IBT Constitution and the LMRDA were duly observed.

Next, I find that, contrary to the contentions of the Charged Parties, the exclusion of their attorneys from participation in the proceedings was neither improper nor asymmetrically applied. This limitation, which was set forth in the Hearing Rules read into the record, flows directly from the IBT Constitution, which states in Article XIX, § 1(c) that "only a member in good standing of the Local Union" may "represent [the charged party] in the presentation of the defense." It is also consistent with federal law.¹⁰ Moreover, the Panel applied this stricture evenhandedly; it excluded an IBT staff attorney who had assisted Trustee Unterseher in preparing his case from the hearing and even declined to permit the testimony of an attorney the Charging Party sought to call as an expert witness. In addition, the Chair informed all Parties on the record that they were free to consult with counsel outside of the hearing, and Brother Robles acknowledged that he and the other Charged Parties had prepared with attorneys prior to the hearing and continued to consult with them during recesses.¹¹

Having determined that the hearing was procedurally adequate, I now turn to the merits of Trustee Unterseher's allegations.

a. *Charge One: Embezzlement*
Andrew Robles

Charge One alleged that Brother Robles, the former President and Principal Officer of Local 2118, defrauded and embezzled approximately \$982,437.70 from the Local's coffers by developing and implementing an illegal scheme to secure compensation for himself that was not established or authorized by the Local's Executive Board. The Charging Party asserted that this scheme violated various provisions of federal law, the IBT Constitution, and the Local's Bylaws.¹²

As Trustee Unterseher framed it at the hearing, this case "isn't about what Brother Robles got paid, but how he got paid."¹³ According to the Charging Party, Brother Robles "devis[ed] a scheme to pay himself a disguised salary and benefits that were never authorized by the Local 2118

⁹ See *U.S. v. Int'l Bhd. of Teamsters*, 247 F.3d 370, 385 (2d Cir. 2001).

¹⁰ *Frye v. United Steelworkers of Am.*, 767 F.2d 1216, 1224 (7th Cir.), cert. denied, 474 U.S. 1007 (holding that the LMRDA does not require that union disciplinary hearings incorporate the specific protections associated with judicial proceedings, including the right to be represented by counsel).

¹¹ Tr., 300:5-7.

¹² Charge One alleged that this conduct violated 29 U.S.C. § 501(c)(3), 18 U.S.C. § 1341, and 18 U.S.C. § 1343; the IBT Oath of Office and Art. II, § 2(a), Art. XIX, §§ 7(b)(1), (2), (3), and (11) of the International Constitution; and §§ 15(A), 20(E), 14(A)(2), and 7(O) of Local 2118's Bylaws. Additionally, under Art. XIX, § 7(b)(3) of the IBT Constitution, charges may be brought against officers for breaching a fiduciary obligation by an act of embezzlement or conversion of a union's funds.

¹³ Tr., 471:4-6.

Executive Board.”¹⁴ Brother Robles claimed for himself, and unilaterally approved, lost time wages—or “flight pay loss,” in the parlance of the airline industry—for virtually every day of the year for the several years he served as the Local’s Principal Officer. This effectively amounted to a salary—one of nearly \$400,000 annually¹⁵—that was never approved by Local 2118’s Executive Board, contrary to the requirements of the Local’s Bylaws. Specifically, Brother Robles designated himself as the sole full-time elected individual entitled to “Long Term Union Business” under § 24(B) of the Allegiant Collective Bargaining Agreement (“CBA”), then claimed eligibility for flight pay loss (“FPL”) for every day he worked. Pursuant to the CBA, Local 2118 fully reimbursed Allegiant, plus a premium to cover benefits. The Panel found this was improper because Brother Robles was not eligible for FPL during the relevant period since he was on long-term leave and was not a qualified pilot. Moreover, the Panel found Trustee Unterseher clearly established that the Local’s Executive Board never approved this arrangement.

Brother Robles characterizes these allegations as a “baseless political ploy.”¹⁶ He contended that his use of FPL was disclosed to Local 2118’s Executive Board and membership and complied with the Allegiant CBA and the Bylaws. In his view, the contract makes FPL available for known absences (i.e., where a pilot blocks his time before being scheduled), and as Local 2118’s sole full-time elected official, he properly took long-term union business leave under the contract and simply received known absence FPL for each day of work he performed as the Local’s Principal Officer. Brother Robles further contended that this interpretation of the Allegiant CBA was countenanced by the IBT Legal Department.¹⁷

In contract interpretation, “the plain language of the contract should be considered first.”¹⁸ Here, a brief examination of the Allegiant CBA’s plain language contravenes Brother Robles’ interpretation. Section 24 of the Allegiant CBA governs union business. It establishes two distinct categories of leave: “Short Term Union Business,” and “Long Term Union Business.” Section 24(A)(1), entitled “Time Off for Short Term Union Business,” provides, in pertinent part, that “[u]pon written notification, the Company shall release two (2) Pilots during any one time from duty for the purpose of performing Short Term Union Business.” Section 24(B)(1), entitled “Time Off for Long Term Union Business,” provides that “[t]ime off for purposes of Long-Term Union Business shall be granted only for one (1) individual who has accepted a full-time elected position with the Local Union or International Union.” Section 24(C) governs flight pay loss, and it covers two situations: (1) specific union business days that have been blocked beforehand as a known absence,¹⁹ and (2) Short Term Union Business, as defined in § 24(A).²⁰ Brother Robles does not contend that he was taking Short Term Union Business leave.²¹ Rather, as he helpfully clarified in an email to Eric Gust (“Mr. Gust”), Allegiant’s Vice President of Flight Operations, he

¹⁴ Tr., 470:4-7.

¹⁵ Tr., 46:11.

¹⁶ Tr., 244:24-25.

¹⁷ Tr., 264:14.

¹⁸ *Klamath Water Users Protective Ass’n v. Patterson*, 204 F.3d 1206, 1210 (9th Cir. 1999).

¹⁹ Allegiant CBA § 24(C)(2)(a)(i).

²⁰ Allegiant CBA § 24(C)(2)(a)(ii).

²¹ To do so he would have been required under the Allegiant CBA to notify the Company in advance of all the days he requested off. Brother Robles does not contend that he ever attempted to provide such notification.

purported to be on “fulltime FPL.”²² As Mr. Gust recognized in his response, “there is no such status in the Allegiant CBA.”²³

Other provisions of the Allegiant CBA support the conclusion that FPL is inapplicable to a pilot on full-time leave.²⁴ Section 24(C)(1)(c) plainly contemplates that in order to be eligible for FPL a pilot must be “active.”²⁵ Section 2 defines “active pilot” as one who is “current and qualified” and “performing in the service of the company.” As witness Tim Jewell (“Brother Jewell”), the former President of Teamsters Local Union No. 1224 (“Local 1224”),²⁶ testified, FPL is designed to compensate “a member doing union work on a day he was scheduled to work for the company.”²⁷ In contract interpretation, “[p]reference must be given to reasonable interpretations as opposed to those that are unreasonable.”²⁸ It would be illogical for an inactive pilot to receive FPL because even if the pilot were not pursuing business for the union he would not have received any wages from the employer, since he was legally unqualified to work. Since a pilot on Long-Term Union Business is not required to remain qualified, as Brother Robles conceded at the hearing,²⁹ it follows that such a pilot should not be eligible for flight pay loss.

Accordingly, I conclude that the Allegiant CBA does not extend flight pay loss coverage to long-term union business leave. Therefore, the payments Brother Robles received from Local 2118, which he characterized as flight pay loss, were improper.³⁰ Rather, as a full-time employee of Local 2118, Brother Robles should have received his compensation directly from the Local; thus, I agree with the Panel that Brother Robles’ FPL scheme amounted to a disguised salary. Pursuant to § 14(A)(2) of the Local’s Bylaws, the Local Executive Board is required to “establish” and “approve” the President’s salary.³¹ By fraudulently claiming and unilaterally approving his FPL, Brother Robles effectively set his own salary and benefits absent any Local Executive Board approval. This contravened the IBT Constitution and the Local 2118 Bylaws. To be sure, even if Brother Robles adequately disclosed his FPL to Local 2118’s Executive Board, as he contended, he did,³² the arrangement would remain improper. Moreover, the memo from the IBT Legal Department that Brother Robles claims to ratify his FPL scheme concerns an entirely different issue and has nothing to do with FPL eligibility.³³

²² See Charging Party Exhibit 12.

²³ See Charging Party Exhibit 12.

²⁴ See *Shakey’s Inc. v. Covalt*, 704 F.2d 426, 434 (9th Cir. 1983) (observing that “a written contract must be read as a whole.”).

²⁵ Section 24(C)(1)(c) states, in relevant part, that “[a] Pilot on a Union Business,” for purposes of the flight pay loss provision, “shall [c]ontinue to receive all other benefits covered by this Agreement, on the same basis as *other active Pilots* ...” (emphasis supplied).

²⁶ Local 1224 negotiated and administered the CBA that remains operative between Local 2118 and Allegiant, the one governing these proceedings. I therefore consider Brother Jewell to have some authority with respect to the meaning of the contract’s language.

²⁷ Tr., 57:23-25; 58:1-3.

²⁸ *Knewick Irr. Dist. v. U.S.*, 880 F.2d 1018, 1032 (9th Cir. 1989).

²⁹ Tr., 256:8-9.

³⁰ Brother Robles’ regulatory certificates lapsed in November 2021; he acknowledged at the hearing; he acknowledges that he was not qualified to fly planes for Allegiant.

³¹ Charging Party Exhibit 21.

³² The Panel found the evidence on this point was at best inconclusive.

³³ See Charged Party Exhibit 5. The memorandum from Former IBT Staff Counsel Nick Manicone addresses whether waiving the minimum day off requirement for pilots on union business amends or clarifies the CBA. It does not in any respect mention or address FPL.

Furthermore, contrary to Brother Robles' assertions, the evidence suggests that these improprieties cannot be reduced to simple good-faith misinterpretations of the Allegiant CBA.³⁴ First, as described above, Brother Robles was expressly advised by an Allegiant VP that full-time FPL does not exist under the Allegiant CBA. Second, in negotiations for a new Allegiant CBA, Brother Robles prepared and advanced a proposal specifically clarifying that an inactive pilot on long-term union business was eligible for FPL.³⁵ Similarly, shortly after the audit commenced, Brother Robles retained consultants and attorneys to draft a policy providing that "[t]he President of the Local will receive 1290 pay credit hours [PCH] per month if on long-term Flight Pay Loss"—conveniently the precise amount of PCH that Brother Robles claimed each month.³⁶ If Brother Robles truly maintained a good-faith belief that his disguised salary scheme was permissible under the Allegiant CBA's existing FPL language, he would have had little reason to explicitly enshrine his interpretation of the provision in the new contract or the Local's policies and procedures. His attempts to do so undermine his good-faith defense.

Brother Robles' disguised salary scheme is no trivial matter. It arguably amounts to criminal misconduct, for § 501(c) of the LMRDA outlaws embezzling funds from a labor organization.³⁷ This provision imposes "the broadest possible fiduciary duty upon union officers,"³⁸ particularly in cases "involving a union officer's diversion of union funds or property into his own hands."³⁹ It has been held to "cover almost every kind of taking,"⁴⁰ including, as here, "the diversion of hundreds of thousands of dollars in union funds disguised as 'salary.'"⁴¹

***b. Charge Two: Failure to Implement Financial and Governance Policies
Andrew Robles***

Charge Two alleged that Brother Robles willfully refused to develop and implement the financial, administrative, and governance policies required by the IBT. This failure deprived Local 2118's membership of their rights to faithful and honest services and enabled Brother Robles to personally enrich himself at the expense of such members.⁴²

I find that Brother Robles fostered a culture of neglect with respect to the Local's financial and governance matters. Under the leadership of Brother Robles, as the Local's only full-time elected officer, Local 2118 failed to develop and implement the essential policies and procedures that the IBT requires of all its affiliates. As the record evidence reveals, this failure resulted in thousands of dollars in unapproved and/or improperly documented expenditures flowing from the Local's treasury. Such conduct constitutes a clear breach of Brother Robles' fiduciary obligations

³⁴ Tr., 268:6; 246:10-11.

³⁵ See Charging Party Exhibit 24.

³⁶ Charging Party Exhibit 18, LOCAL 2118 POLICY AND PROCEDURES MANUAL, § 3(a).

³⁷ 29 U.S.C. § 501(c).

³⁸ U.S. v. Gibson, 675 F.2d 825, 826 (6th Cir. 1982).

³⁹ Ray v. Young, 753 F.2d 386, 389 (5th Cir. 1985).

⁴⁰ U.S. v. Harmon, 339 F.2d 354, 357 (6th Cir. 1964).

⁴¹ U.S. v. Lore, 430 F.3d 190, 202 (3d Cir. 2005).

⁴² 29 U.S.C. § 501(c)(3), 18 U.S.C. § 1341, and 18 U.S.C. § 1343; the IBT Oath of Office and Art. II, § 2(a), Art. XIX, §§ 7(b)(1), (2), (3), and (11) of the IBT Constitution; and §§ 15(A), 20(E), 14(A)(2), and 7(O) of Local 2118's Bylaws.

as an officer of Local 2118.⁴³ It contravenes the IBT Constitution,⁴⁴ the Local's Bylaws,⁴⁵ and federal law.⁴⁶

Local 2118's former Secretary-Treasurer, Brother Joseph, testified before the Panel that the Local had "absolutely no policy or procedures manual" and "no minutes at all."⁴⁷ According to Brother Joseph, it was not until after the audit began that the Local Executive Board attempted to "hastily" put together policy and procedure documents.⁴⁸ Brother Joseph further testified that he requested a copy of the relevant policies, guidelines, and other documents when he assumed his responsibilities as Secretary-Treasurer, and received "nothing, zero."⁴⁹ Moreover, Brother Joseph testified that Brother Robles prohibited the officers from attending any training, and consequently none of them did.⁵⁰

Brother Joseph's testimony is consistent with that of the two IBT Auditors dispatched to investigate the Local's financial and governance practices. Auditor Mike Prete ("Brother Prete") described the Local's financial practices as "poor at best."⁵¹ He concurred that the Local had not established any written financial governance policies until after the audit, which, he testified, were still "not approved properly."⁵² He explained that the audit team uncovered a "consistent pattern of missing receipts and/or missing documentation,"⁵³ and that "there were only two sets of the Local Executive Board minutes for the entire audit period."⁵⁴ Auditor Joe Polo ("Brother Polo") affirmed that the audit team uncovered "\$157,000.00 of inappropriate credit card charges," including "high-ticket items,"⁵⁵ along with "voluminous missing receipts."⁵⁶ These men have collectively worked as auditors at the IBT for decades. I find their testimony highly credible.⁵⁷ An independent Hearing Panel also determined that this misconduct was sufficient to warrant an emergency trusteeship, and likewise I find the evidence to be sufficient to sustain Charge Two.

⁴³ See 29 U.S.C. § 501(a) (imposing fiduciary duties on union officers); *US v. IBT*, 652 F.Supp.2d 446, 452 (S.D.N.Y. 2009) (observing that union officer has "fiduciary obligation to ensure that union funds were used only for union purposes.").

⁴⁴ See, e.g., Art. XIX, § 7(b)(3) (providing that breaching a fiduciary obligation owed to any labor organization is a basis for charges against an officer).

⁴⁵ See Charging Party Exhibit 21, LOCAL 2118 BYLAWS §§ 15(A), 16(B), 17(G).

⁴⁶ See 29 U.S.C. § 501(a) (imposing fiduciary duties on union officers); *US v. IBT*, 652 F.Supp.2d 446, 452 (S.D.N.Y. 2009) (observing that union officer has "fiduciary obligation to ensure that union funds were used only for union purposes.").

⁴⁷ Tr., 101:11-14.

⁴⁸ Tr., 107:3-8; 111:13-21.

⁴⁹ Tr., 109:23.

⁵⁰ Tr., 108: 21-24.

⁵¹ Tr., 223:15.

⁵² Tr., 202:6.

⁵³ Tr., 222:1-2.

⁵⁴ Tr., 224:16-18.

⁵⁵ Tr., 193:15-16.

⁵⁶ Tr., 206:1.

⁵⁷ Much of the Charged Parties' cross-examination of Brother Polo and Brother Prete amounted to efforts to demonstrate that receipts, affidavits, or explanations were subsequently supplied for at least some of the unapproved charges or undocumented expenses. See, e.g., Tr., 199:14-17; 205:13-16; 209:24-25. Even if true, this does not negate the basic fact that the IBT's financial policies were not properly adhered to, and the Local Executive Board did not develop and implement the requisite policies and procedures.

**c. Charge Three: Concealment of Embezzlement of Local 2118 Assets
Andrew Robles**

Charge Three alleged that Brother Robles violated the IBT Constitution and the Local 2118 Bylaws by hiring law firms and consultants to draft policies and contractual provisions designed to retroactively legitimize and conceal his illegal salary and benefit scheme. Brother Robles, for his part, described this Charge as “a gross mischaracterization of good faith efforts taken by myself (sic) and the Local Executive Board to respond to the issues raised by the IBT auditors.”⁵⁸

I find that the evidence in the record is insufficient to sustain Charge Three. First, the Charging Party introduced Local 2118’s Policy and Procedure Manual (the “Manual”), a four-page document prepared after the audit began, as an exhibit.⁵⁹ That the Local Executive Board created this Manual does not necessarily evince any wrongdoing; in fact, the IBT Auditors testified that they instructed the Local Executive Board to do so.⁶⁰ Moreover, the Manual’s provisions are generally standard and unobjectionable.⁶¹ To be sure, one section of the Manual purports to codify Brother Robles’ erroneous and bad-faith interpretation of the Allegiant CBA’s FPL provisions, as described above.⁶² But the existence of this single provision is far from adequate to demonstrate that an otherwise unobjectionable document was designed to “conceal and paper over [Brother Robles’ alleged] embezzlement scheme.”⁶³

Furthermore, the record contains little testimony addressing this issue. Brother Joseph testified that after the audit began the Local Executive Board “cobbled together some hastily, I think, six-page document, policy/procedure manual,”⁶⁴ but he did not explicitly claim that the document was constructed to conceal misconduct. Although the IBT Auditors testified that the mechanism used to approve the Manual was inadequate,⁶⁵ this procedural deficiency does not prove that Brother Robles “spent thousands of dollars from the Local’s treasury to conceal and paper over his embezzlement scheme,”⁶⁶ as the Charging Party alleges. In fact, the Panel’s recommendation found the Charging Party did not present any evidence substantiating this figure or clarifying how he calculated it.⁶⁷

⁵⁸ Tr., 332:10-13.

⁵⁹ Charging Party Exhibit 18.

⁶⁰ Tr., 225:5-8.

⁶¹ The Manual sets forth, for instance, procedures governing such routine matters as car rentals, hotel reservations, receipts, vacation time, and Local Executive Board meetings.

⁶² Charging Party Exhibit 18 § 3(a).

⁶³ Tr., 24:12-15.

⁶⁴ Tr., 107:6-7.

⁶⁵ Tr., 202:2-6.

⁶⁶ Tr., 24:12-15.

⁶⁷ The Charging Party introduced as evidence four consulting agreements between Local 2118 and associates of Brother Robles, but he failed to present any evidence that these individuals helped design policies or contractual provisions to legitimize or conceal Brother Robles’ salary scheme, as alleged. For example, Trustee Unterseher attempted to link John Owens’ (“Mr. Owen”) consulting contract with the Local Executive Board’s efforts to “paper over their improper actions,” see, e.g., Tr., 6-13, but neither he nor any witness explained how Mr. Owens’ services contributed to these alleged efforts. Indeed, the testimony existing in the record reveals that these consultants generally produced very little work. See, e.g., Tr., 115:2-6.

Thus, I agree with the Panel and find the Charging Party did not prove by a preponderance of the evidence that Brother Robles orchestrated the payment of tens of thousands of dollars from Local 2118's treasury to conceal his embezzlement scheme. Rather, the record evidence is consistent with Brother Robles' defense that the Local Executive Board simply "hired professionals"⁶⁸ to help them "respond to the issues raised by the IBT Auditors."⁶⁹

d. Charge Four: Aiding and Abetting

Ryan Fogelsanger, Joshua Rockwood, Kurt Hanson, Michael Cawley, and Kenneth Seiden

Charge Four alleged that as Local Executive Board members and officers of Local 2118, Brother Fogelsanger, Brother Rockwood, Brother Hanson, Brother Cawley, and Brother Seiden effectively rubber-stamped and deferred to the wishes and dictates of Brother Robles and, in so doing, failed to take any action to prevent his unlawful embezzlement scheme. The Charge alleges that this failure violated the IBT Oath of Office; Article II, Section 2(a) and Article XIX, Sections 7(b)(1), (2), and (3) of the IBT Constitution; and §§ 15(A) and 20(E) of Local 2118's Bylaws.

I find the evidence sufficient to sustain Charge Four in substance. As officers of a labor organization, Local 2118's Executive Board was subject to broad fiduciary duties under the law.⁷⁰ As described above, it was improper for Brother Robles to claim FPL on an ongoing basis. In failing to resist or challenge Brother Robles' FPL scheme, Brother Fogelsanger, Brother Rockwood, Brother Hanson, Brother Cawley, and Brother Seiden breached their fiduciary obligation to ensure that union funds were appropriately spent and to properly approve all expenditures. In addition, as discussed above, the Local Executive Board collectively failed to adopt financial oversight policies, properly verify or approve expenditures, or record official meeting minutes. The Local Executive Board also permitted Brother Robles to deceive the Local's membership regarding his FPL.⁷¹ Taken together, these and other failures enabled Brother Robles' embezzlement scheme.

The Local Executive Board's malfeasance cannot be excused by their lack of experience or training, as the Charged Parties argue. To begin with, the Charged Parties have generally served in union leadership roles for years.⁷² Moreover, when Local 2118 was released from administrative trusteeship in 2022, then-Trustee Scott Hegland assured the former General President, James P Hoffa, that they were "sufficiently capable to take over the administration of this Local Union."⁷³ Nor can these shortcomings be fairly attributed to a lack of knowledge. According to the Panel's recommendation, to defend themselves at the hearing, the Charged Parties portrayed themselves as perfectly cognizant of the Local's financial activities. For instance,

⁶⁸ Tr., 332:12.

⁶⁹ Tr., 332:20-21.

⁷⁰ See 29 U.S.C. § 501(c); U.S. v. Gibson, 675 F.2d 825, 826 (6th Cir. 1982).

⁷¹ See Charged Party Exhibit.

⁷² Tr., 393:12. Brother Fogelsanger was formerly a chairman of the Executive Council for Allegiant pilots in Local 1224. Brother Hanson was a twice-elected trustee of Local 2118. Brother Rockwood and Brother Cawley were both members of Local 2118's original Executive Board that came into existence when the administrative Trusteeship in 2022 was lifted.

⁷³ Charging Party Exhibit 5.

Brother Fogelsanger testified that “the details of FPL were fully documented in monthly trustee reports, which were reviewed and signed by members of the Local Executive Board”⁷⁴; Brother Rockwood stated that meetings “always started with an in-depth look at financial information”⁷⁵; and Brother Hanson concurred that the Local Executive Board “meticulously reviewed Local 2118 financial documents monthly.”⁷⁶

Regardless, whether the Charged Parties were not adequately trained or made entirely aware of Brother Robles’ misconduct is beside the point. Ultimately, the Local Executive Board failed to adopt the requisite policies and procedures or ensure that union expenditures were proper. Whether malfeasance or misfeasance, such failures constituted breaches of their elementary fiduciary duties. For these reasons, I am sustaining Charge Four.

However, Charge Four alleged that Brother Fogelsanger, Mr. Rockwood, Mr. Hanson, Mr. Cawley, and Mr. Seiden aided and abetted Mr. Robles’ violations as set forth in Charges One, Two, and Three [Since the Panel found no merit to Charge Three [they found the portion of Charge Four predicated on Charge Three meritless].

e. Charge Five: Threatening to Retaliate Against Fellow Local 2118 Executive Board Member

Andrew Robles, Ryan Fogelsanger, Joshua Rockwood, Kurt Hanson, Michael Cawley, and Kenneth Seiden

Charge Five alleged that the Charged Parties threatened to retaliate against fellow Local 2118 Executive Board member Brother Joseph because he complained to the IBT about Brother Robles’ misconduct. As with Charge Three, Charge Four alleges that this failure violated the IBT Oath of Office; Art. II, Sec. 2(a) and Art. XIX, Sec. 7(b)(1), (2), and (10) of the International Constitution; and §§ 15(A) and 20(E) of Local 2118’s Bylaws.

Brother Joseph, as then-Secretary-Treasurer of Local 2118, sent a letter to my office in late 2023, disclosing that Brother Robles had engaged in certain improprieties in connection with the Local’s officer election conducted in December 2023.⁷⁷ This letter initiated the IBT audit that ultimately led to the imposition of an emergency trusteeship over the Local’s affairs. According to Charge Five, while the IBT’s investigation and audit was underway, the Charged Parties concocted a plan to cause Allegiant Air to terminate Brother Joseph. This scheme allegedly consisted of filing charges against Brother Joseph then convening a trial board over which the Charged Parties would preside to adjudge him guilty and subsequently expel him from the Local, resulting in his discharge from Allegiant.

I find the evidence in the record is sufficient to show only Brother Seiden threatened to retaliate against Brother Joseph. The evidence offered in support of Charge Four was the testimony of Local 2118 member Josh Allen (“Brother Allen”), who stated that he had a telephone conversation with Brother Seiden on January 3rd. According to Brother Allen’s testimony,

⁷⁴ Tr., 364:3-5.

⁷⁵ Tr., 372:20-22.

⁷⁶ Tr., 383:21-22.

⁷⁷ Charging Party Exhibit 22.

Brother Seiden disclosed Brother Joseph's whistleblowing to Brother Allen and informed him that "they were going to remove all the duties of Brother Joseph as much as they could that allow them within the Bylaws."⁷⁸ Furthermore, Brother Allen testified that Brother Seiden told him that "once the investigation was over" the Local Executive Board was "going to bring Brother Joseph up on charges and try to get him fired."⁷⁹ I find Brother Seiden did not deny that this conversation took place or otherwise cast any doubt on the veracity of Brother Allen's testimony.

Nonetheless, Brother Allen's testimony did not directly implicate any of the Charged Parties besides Brother Seiden. Although Brother Allen testified that the following morning he informed Brother Rockwood that he "had been told what they were planning to do with Ryan Joseph" and "didn't want anything to do with it,"⁸⁰ this testimony did not prove that Brother Rockwood was complicit in or even aware of the plan. Indeed, on cross-examination, Brother Allen acknowledged that Brother Rockwood never said he wanted to cause Brother Joseph's termination. Furthermore, Brother Allen admitted that he never spoke with Brother Robles, Brother Fogelsanger, Brother Hanson, or Brother Cawley about the retaliation plan. The Charging Party did not produce any other evidence implicating these individuals.

Therefore, I find that a preponderance of the evidence establishes only Brother Seiden threatened to retaliate against a fellow member of the Local 2118 Executive Board. I sustain Charge Five only against him.

Conclusion and Decision

Based on the Panel's recommendation Charges One, Two, Four, and Five to the extent described herein are SUSTAINED, and Charge Three is DISMISSED. With respect to remedies, I adopt the Panel's recommendation for immediate expulsion of Andrew Robles, Ryan Fogelsanger, Joshua Rockwood, Kurt Hanson, Michael Cawley, and Kenneth Seiden from membership in the International Brotherhood of Teamsters and all its affiliates. These individuals are ordered to make Local 2118 whole for all losses it incurred as a result of the Charged Parties' misconduct.

SO DECIDED ON THIS FOURTEENTH DAY OF JANUARY 2025.

Respectfully submitted,



Sean M. O'Brien
General President

⁷⁸ Tr., 180:20-22.

⁷⁹ Tr., 180:23-24; 181:1-2.

⁸⁰ Tr., 181:24-25; 182:1-3.