



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 20
901 Market Street, Suite 400
San Francisco, CA 94103-1738

Agency Website: www.nlr.gov
Telephone: (415)356-5130
Fax: (415)356-5156

September 26, 2018

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

Re: International Association of Theatrical
Employees, [IATSE] Local 16 (Island
Creative Management) (Various Employers)
Cases 20-CB-213058, 20-CB-213223,
20-CB-214630, 20-CB-217075, &
20-CB-222610

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

We have carefully investigated and considered your charges that International Association of Theatrical Stage Employees, [IATSE] Local 16 has violated the National Labor Relations Act.

Decision to Partially Dismiss: Based on that investigation, I have decided to dismiss the following portions of your charges for the reasons described below.

First, the allegations labeled no. 1 in all of the charges assert that Local 16 violated Sections 8(b)(1)(A) and (2) of the Act by unlawfully failing to refer you to work. Contrary to your allegations, the investigation did not reveal unlawful failures to refer you to particular jobs in the time period covered by the charges. Rather, the evidence revealed that Local 16 referred you to work consistently throughout this timeframe while it abided by its referral procedures to refer others to work as well.

Second, the allegations labeled no. 2 in all of the charges assert that Local 16 violated Section 8(b)(1)(A) of the Act by failing or refusing to provide requested information relating to the operation of its referral service. Because you admitted that requests for information pertaining to media server and LED technician work referred through Local 16's referral service are moot, the Region determined that Local 16 had no obligation to respond to such requests made in the time period covered by the charges. In addition, paragraph "(2)" in your December 5, 2017 request sought no actual information; paragraph "(7)" in your December 26, 2017 request impermissibly sought information analysis; and paragraph "(3)" of your June 6, 2018 request related to an internal union matter not sufficiently related to your work or status as an employee. Otherwise, the allegations contained in all charges asserting violations of Section 8(b)(1)(A) of the Act by Local 16's failures to provide requested information remain subject to further processing.

With respect to the allegations labeled no. 5 in charges 20-CB-213058 and 213223, the legality of Local 16's enforcement of a Do Not Refer letter issued by employer Island Creative

Management has been repeatedly investigated and rejected by the Region. No new facts were presented nor a change in law to dictate a different decision now.

With respect to the allegations labeled no. 6 in charges 20-CB-213058 and 213223 and no. 4 in charge 20-CB-222610, allegations regarding your membership status in Local 16, these allegations have been previously investigated and dismissed because they related to internal union matters insufficiently related to your status as an employee.

With respect to the allegations labeled no. 8 in charges 20-CB-213058 and 213223, asserting that a cease and desist letter relating to posts you made on Facebook violated Section 8(b)(1)(A) of the Act, the Region determined that the attorney who issued the letter was acting on (b) (6), (b) law firm's behalf and not on Local 16's. In any event, the issue addressed by the letter (i.e., posts regarding Local 16's use of a particular law firm) is not sufficiently related to your status as an employee to justify Board intervention.

Finally, the allegations labeled no. 10 in charges 20-CB-213058 and 213223, asserting that Local 16 failed or refused to file a grievance on your behalf in violation of Section 8(b)(1)(A) of the Act, the Region determined that the collective-bargaining agreements do not contemplate a grievance of the sort you requested be filed.

The remaining allegations in all charges that Local 16 has violated Sections 8(b)(1)(A) and (2) of the Act remain 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 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. 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 10, 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 9, 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 10, 2018. The request may be filed electronically through the *E-File Documents* link on our website 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 10, 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,

/s/

JILL H. COFFMAN
Regional Director

Enclosure

cc: Steve Lutge, Business Manager
International Association of Theatrical Stage Employees,
[IATSE] Local 16
240 Second Street Suite 100
San Francisco, CA 94105-3115

International Association of Theatrical
Employees, Local 16 (Various Employers)
(Various Employers)
Cases 20-CB-213058, et al.

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September 26, 2018

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September 28, 2018

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

Re: Amalgamated Transit Union, Local 192
(National Express Transit Inc.)
Case 20-CB-221398

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

We have carefully investigated and considered your charge that Amalgamated Transit Union, Local 192 (the Union) has violated the National Labor Relations Act (the Act).

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

Your charge alleges that the Union refused to process a grievance regarding your loss of seniority for arbitrary or discriminatory reasons or in bad faith. Contrary to your allegation, the investigation disclosed that the Union filed a grievance on your behalf and that your Union (b) (6), (b) (7)(C) notified you that the grievance had been filed. The investigation further disclosed that, since filing the grievance, the Union has attempted to contact you to discuss it, including by letter dated (b) (6), (b) (7)(C) 2018; however, you have not responded to the Union. While you claim that the Union is retaliating against you because you filed an unfair labor practice charge against the Union in 2015, which you withdrew shortly after filing, the evidence is insufficient to support either the alleged retaliation or the Union's alleged animosity toward you based on your previous charge. In these circumstances, it cannot be concluded that the Union failed to fairly represent you in violation of the Act. Accordingly, 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.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.nlrb.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 12, 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 11, 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 12, 2018. The request may be filed electronically through the **E-File Documents** link on our website 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 12, 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,

/s/

JILL H. COFFMAN
Regional Director

Enclosure

cc: Stephanie Maher, Director/General Manager
 National Express Transit Inc.
 1850 Broadway Street
 Vallejo, CA 94589-2215

Yvonne Williams, Union Representative
Amalgamated Transit Union, Local 192
8460 Enterprise Way
Oakland, CA 94621-1318



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September 21, 2018

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

Re: Bakers' Union Local 85 (Farm Fresh To
You)
Case 20-CB-223104

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

We have carefully investigated and considered your charge that Bakers' Union Local 85 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.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.nlrb.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 5, 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 4, 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 5, 2018**. The request may be filed electronically through the *E-File Documents* link on our website www.nlrb.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 5, 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,

/s/

DANIEL J. OWENS
Acting Regional Director

Enclosure

cc: Jerry Gil, Secretary Treasurer
Bakers' Union Local 85
7125 Governors Circle
Sacramento, CA 95823-2574

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Weinberg Roger & Rosenfeld
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September 25, 2018

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

Re: Amalgamated Transit Union Local Division
256 (MV Transportation)
Case 20-CB-223342

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

We have carefully investigated and considered your charge that Amalgamated Transit Union Local Division 256 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.

You allege that the Union violated Section 8(b)(1)(A) of the Act by refusing to process a grievance regarding your discharge from MV Transportation for arbitrary or discriminatory reasons or in bad faith. A union breaches its duty of fair representation in the handling of a grievance if its conduct was arbitrary, discriminatory, or in bad-faith. Unions are afforded a wide range of wide discretion in the handling and disposition of grievances, *Vaca v. Sipes*, 386 US 171 (1967), and its actions are considered arbitrary under the duty of fair representation "only if, in light of the factual and legal landscape at the time of the union's actions, the union's behavior is so far outside a 'wide range of reasonableness' as to be irrational." *IAM Local Lodge 2777 (L-3 Communications)*, 355 NLRB 1062, 1064 (2010), quoting *Air Line Pilots Assn. v. O'Neill*, 499 U.S. 65, 67 (1991) and *Ford Motor Co. v. Huffman*, 345 U.S. 330, 338 (1953). In this regard, something more than mere negligence, the exercise of poor judgment, or ineptitude on the part of the union must be shown in order to support a finding of arbitrary conduct. *Pacific Maritime Association*, 321 NLRB 822, 823 (1996); *Plumbers Local 195 (Stone & Webster)*, 240 NLRB 504, 507-508 (1979).

In this case, the investigation disclosed that you promptly informed the Union of your discharge on about (b) (6), (b) (7)(C), 2017. However, you did not ask the Union for assistance with a grievance at that time. Rather, you informed the Union that you would seek recourse elsewhere, and you did not follow up with the Union until about (b) (6), (b) (7)(C) 2018, long after the deadline for filing a grievance had passed. It was at that time that you asked the Union for its attorney's assistance, but as the Union subsequently explained to you, in its view, it could not pursue your claims because of the long-passed grievance-filing deadline and the fact that you were unable to perform the essential functions of your job. Thus, the evidence is insufficient to establish that the Union acted arbitrarily, discriminatorily, or in bad faith in its dealings with you regarding your termination.

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 and:

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September 25, 2018

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,

/s/

JILL H. COFFMAN
Regional Director

Enclosure

cc: MV Transportation
2000 Cadenasso Dr., Ste A
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Ralph Niz, President
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