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October 26, 2020

Justin Augustine
61 Roosevelt Street
New Haven, CT 06513

Doreen Rhode
570 Circular Ave
Hamden, CT 06514

Re: JUDICIAL PANEL CASE NO. 20-27
Augustine v. Rhodes et al

GREETINGS:

Enclosed is my decision in the above referenced case.

In Solidarity,

Richard Abelson
Judicial Panel Chairperson

RA:spp

- cc: Lee Saunders, President
- Elissa McBride, Secretary-Treasurer
- James Howell, Regional Director O&FS
- Tim Birch, AFSD
- Jody Barr, Executive Director Council 4
- Lore Lichtenberg (accused party)
- Joy Dunston (accused party)
- Carl Alford (accused party)
- Kassi Young (accused party)
- Dion Bordeaux (accused party)
- Earl Carthens (accused party)

Maria Sterling (accused party)
Michael Whitty (accused party)

JUDICIAL PANEL CASE 20-27
Augustine v. Rhodes, et al.

This case involves charges filed by Justin Augustine against Doreen Rhodes, Lore Lichtenberg, Joy Dunston, Carl Alford, Kassi Young, Dione Bordeaux, Earl Carthens, Maria Sterling, and Michael Whitty. All of the parties are members of Local 884, City of New Haven, CT Classified Employees Union. Local 884 is affiliated with Connecticut Council 4. The Judicial Panel assumed original jurisdiction over this matter on June 11, 2020, pursuant to Article X and XI of the International Constitution.

The case was assigned to Judicial Panel Chairperson Richard Abelson. Following due notice to all interested parties, the virtual trial was held on August 31, 2020, via Zoom. All testimony was given under oath and a complete transcript of the proceeding was made by a professional court reporter.

THE PARTIES

The charging party, Justin Augustine, was present at trial and was not represented by counsel. The accused parties, Doreen Rhodes, Lore Lichtenberg, Joy Dunston, Carl Alford, Kassi Young, Earl Carthens, and Maria Sterling, were present at trial and was represented by Sister Lichtenberg. Dione Bordeaux and Michael Whitty did not appear at trial.

THE CHARGES

(See Attached)

EVIDENCE IN SUPPORT OF THE CHARGES

Brother Justin Augustine filed three general charges against the entire executive board of Local 884. The three general charges will be discussed separately.

The first charge is that Local 884 failed to remit per capita taxes owed to the International Union and to its affiliated Council 4 in a timely manner. In conjunction with this charge, Brother Augustine charges that:

- The accused parties violated Article VII, Section 1-5 when they allegedly refused to turn over financial information such as minutes and other financial documents, to Council 4 and the International Union in a timely and accurate manner;
- The accused parties violated Article X, Section 2(B) of the International Constitution by failing to report to the membership their failure to file per capita payment to the International Union and Council 4;
- The accused parties deliberately interfered with officials of the Federation or a subordinate body by refusing to adhere to directives to conduct the business of the Local in conformance with the respective Constitutions in violation of Article X, Section 2(J) of the International Constitution; and,
- The accused parties knowingly submitted a false per capita tax by delaying the payment of per capita payments for month on several occasions, while making no financial reports to the membership for months at a time in violation of Article X, Section 2(M) of the International Constitution.

All of the above charges stem from Local 884's failure to pay per capita payments to the International Union and to Council 4. Brother Jody Barr, president and executive director of Council 4 testified that in late 2019, Local 884 had arrearages in their per capita payments to Council 4 totaling over \$70,000.00, and by February 2020 totaling almost \$90,000.00. (TR 20) In March 2020, Local 884 submitted a check for \$4,000.00 to the International Union for per capita payments which was returned due to insufficient funds. Local 884, therefore, was also delinquent in its per capita payments to the International Union. (TR 21)

Because of the delinquencies to the International Union and to Council 4, Brother Barr testified that he sent Local 884 president, Sister Doreen Rhodes, and Local 884 vice president, Sister Lore Lichtenberg the letter marked CP-6. CP-6 states that Local 884 is directed to "switch over" to centralized dues. CP-6 follows an unsuccessful effort by Council 4 to get Local 884 on centralized dues in December 2019. The efforts to direct Local 884 to move to centralized dues were ordered pursuant to Article IX, Section 11 of the International Constitution. Article IX, Section 11 states that "a subordinate body that is affiliated with a council ... which does not pay its per capita tax to the International Union or to such council, as provided in this Constitution, for three consecutive months ... the dues of the members of such subordinate body shall be received directly by such council through central collection."

Brother Barr wrote in CP-6 that in December 2019, "Council 4 mailed a letter to the City of New Haven notifying the City that Local 884 was being moved to centralized dues." However, Brother Barr states that President Rhodes intercepted the letter and

stopped the City from changing over to centralized dues. (TR 20) At the same time, Brother Barr wrote in CP-6 that he had requested fiscal and organizational documents from Sisters Rhodes and Lichtenberg, and those documents were never provided.

In early March 2020, Local 884 had started to catch up on the arrearages in dues. By May 2020 they had caught up, but Brother Barr testified that in July 2020, they had again fallen behind in their per capita payments to Council 4 by approximately \$14,000.00. (TR 26) Brother Barr stated, during cross examination, that Local 884 may have caught up on the \$14,000.00 arrearage since July. (TR 26) Brother Barr further testified that Council 4 has not had any of its affiliated local unions become \$90,000.00 delinquent in the past, and Council 4 has no other affiliated local union which falls behind with the frequency of Local 884. (TR 23)

Brother Barr testified that when he met with Sisters Rhodes and Lichtenberg, they responded negatively and alleged that he had reasons other than being delinquent in their dues for attempting to move Local 884 to centralized dues. (TR 23)

Sister Joy Dunston is an accused party and the current recording secretary of Local 884. Sister Dunston testified that she was elected to office in November 2016. (TR 76) Sister Dunston stated that it was her responsibility to take minutes during meetings of the executive board and membership. (TR 76) Regarding the presentation of financial reports at such meetings, Sister Dunston testified that in 2018 more financial reports were presented by the treasurer than in 2019, and that in 2019 the treasurer experienced "a lot of sickness ... some death and things like that." (TR 77-78)

Brother Barr testified that during the period of time that Local 884 was not remitting its per capita tax to Council 4, allegedly due to the personal problems of the elected treasurer, the local union continued to write checks and pay the officers of the local their monthly stipends. (TR 57)

Brother Augustine states in his charges that the failure to pay per capita payments resulting in arrearages of almost \$90,000.00 to Council 4 and the bouncing of a \$4,000.00 check for per capita payments to the International Union, and the failure to report such actions to the membership constitute the falsification of financial reporting to the members of Local 884. The failure by the leadership of Local 884 to comply with an order to go onto the centralized dues collection constitutes a violation of Article IX, Section 11 of the International Constitution, and a violation of Article X, Sections 2(A), (B), (F), (J), and (K) of the International Constitution.

The second charge is that the accused parties compensated themselves in the way of salaries which were not approved by the membership in violation of Article X, Section 2(B) of the International Constitution. Brother Augustine did not submit any evidence regarding this issue.

The third charge is that accused party and Local 884 executive board member, Sister Maria Sterling, colluded with the employer in violation of Article X, Section 2(D) of the International Constitution. The issues involve the holding over of emergency dispatch operators when mandatory overtime is required and there are no volunteers for the vacant shift.

The undersigned is not going to undertake a deep analysis of the memorandum of understanding regarding the issues. These relate to interpretations of the collective bargaining agreement which is beyond the jurisdiction of the Judicial Panel. However, a superficial review is required.

Sister Nykya Owens is an emergency dispatch operator, Operator II. She testified that her understanding of a memorandum of understanding governing the mandatory assignment of overtime shifts is that the shift will first be offered to volunteers in the Operator II and III classifications. If there are no volunteers, then the Operator III will be assigned. Sister Owens testified that she filed a grievance because she was being mandated and held over to work on a vacant overtime shift instead of an Operator III. Sister Owens testified that she specifically asked Local 884 vice president, Sister Lichtenberg, that Sister Sterling not be present at the grievance hearing because Sister Sterling, an Operator III, had argued against what Sister Owens considered the proper interpretation of the memorandum of understanding in the past, and that she did not trust Sister Sterling. Sister Owens testified that Sister Lichtenberg agreed that Sister Sterling would not be present at the grievance hearing and that Sister Owens could pick her own steward. However, when she got to the grievance hearing, Sister Sterling was there.

During the grievance hearing, Sister Owens stated that Sister Sterling sided with the employer against her and clearly acted in collusion with management regarding the mandatory overtime issue which required Operator IIs being mandated to cover shifts instead of Operator IIIs.

EVIDENCE IN REFUTATION OF THE CHARGES

Sister Maria Sterling testified that she never sided with management against Sister Owens in a grievance meeting or in other venues outside of grievance meetings and that she never argued against the contract. (TR 115, 118) Sister Sterling also testified that she does not remember the exact meeting Sister Owens referred to in her testimony, however, she was never received any emails which told her not to attend a meeting involving Sister Owen's grievance. (TR 117) Finally, Sister Owens testified that as an Operator III, she is still being mandated to work overtime shifts and that the mandated shifts with no volunteers still go to Operator IIIs first, before Operator IIs are assigned. (TR 121-122)

Regarding the issue of delinquent dues and the failure to adhere to the directive to have Local 884 move to centralized dues deduction, the accused parties relied solely on their cross examination of Brother Augustine's witnesses. In general, they argued that other local unions within Council 4 were also not required to be on centralized dues deduction, and that Council 4 president and executive director, Brother Barr, was hostile to them for reasons of their sex and Sister Rhodes' race. They also argued that Brother Barr intimidated them when they had their meeting. They stated that the delinquency in dues of almost \$90,000.00 was incidental and due to the illness of their secretary treasurer. They also argued that they caught up. Regarding the \$14,000.00 delinquency in July 2020, they argued that they believed other local unions were delinquent, as well, and were not being required to move to centralized dues collection.

Sister Lichtenberg also spent considerable time on cross examination casting aspersions upon Brother Barr and his alleged collaboration with Brother Augustine in the filing of the charges.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Brother Justin Augustine filed three separate general charges against the accused parties, all members of the elected executive board of his local union, Local 884. Each of the general charges will be discussed separately.

The first charge concerns the issue of per capita dues paid by Local 884 to the International Union and Council 4. In December 2019, Local 884 was over \$71,000.00 in arrears on per capita dues to Council 4. Council 4 president and executive director, Brother Jody Barr, notified the City of New Haven, CT, that Local 884 was to be switched over to centralized dues at Council 4. This means that Local 884's dues monies were to be sent directly to Council 4, and Council 4 would be responsible for distributing the appropriate per capita payments to the organizational entities to which they were affiliated, and the remaining monies remitted to Local 884. Brother Barr testified that Local 884's president, Sister Doreen Rhodes, prevented that change from occurring. By February 2020 the arrearages totaled almost \$90,000.00.

In March 2020, Brother Barr sent CP-6 to President Rhodes, and Local 884 vice president, Lore Lichtenberg. In addition to raising the issue regarding the move to centralized dues, Brother Barr indicated that he had been informed that Local 884 had bounced a \$4,000.00 check to AFSCME International. The \$4,000.00 check was sent to the International Union by Local 884 as payment of its per capita taxes. Brother Barr also

raised the issue that he had requested fiscal and organizational documents from Local 884 in December 2019, and that information was not received. Lastly, Brother Barr again demanded that Local 884 move to centralized dues. Brother Barr testified that Local 884 has refused to take action to move the local to centralized dues.

The almost \$90,000.00 in arrearages were accrued beginning in January 2018, and every month thereafter, through February 2020. The monies were not paid back to Council 4 in full until two checks were written to Council 4 from Local 884 in March 2020 (\$55,004.10) and May 2020 (\$41,465.60). There was an additional partial payment check written by Local 884 to Council 4 for \$27,265.50 in June 2018. (CP-16) Brother Barr testified at trial that no other local union affiliated with Council 4 had ever accrued delinquent dues of \$90,000.00.

Article IX, Section 11 of the International Constitution states that, "A subordinate body that is affiliated with a council ... which does not pay its per capita tax to the International Union or to such council, as provided in this Constitution, for three consecutive months ... the dues of the members of such subordinate body shall be received directly by such council through central collection." The language of Article IX, Section 11 is unequivocal. If a local union fails to pay its per capita tax to a council for three consecutive months, the dues of the members of such subordinate body "shall be received directly by such council through central collection."

Local 884 was not just three months in arrears on dues but was 23 months in arrears when Brother Barr notified the City of New Haven that they were to be put on centralized dues in December 2020. They continued to be in arrears until March 2020

when they remitted a check for \$55,004.10 to Council 4 and in May 2020 when they remitted a second check for \$41,465.60. After having caught up on dues in May 2020, they had again fallen behind in their dues to Council 4 by approximately \$14,000.00 by July 2020. (CP-16) And, as stated above, Local 884 bounced a \$4,000.00 per capita check to the International Union in early 2020.

Contrary to the assertions made at trial by Local 884 vice president, Sister Lichtenberg, this was not an example of an innocent oversight. This represents a systemic failure to meet the basic obligation of Local 884 to pay its per capita payments in accordance with the Local 884 Constitution, the Council 4 Constitution, and the International Constitution. Brother Barr was acting as a responsible fiduciary officer of Council 4 by taking action to move Local 884 to centralized dues. Further, he was acting with the full authority of Article XI, Section 11 of the International Constitution.

The allegations raised by Sister Lichtenberg that Brother Barr was being retaliatory or vengeful toward the officers of Local 884 downplays the seriousness of the egregious violations represented in the failure to remit per capita payments. The allegations concerning Brother Barr are completely unproven and, on their face, absurd. Also absurd are any allegations that there exists wrongdoing in Brother Barr cooperation with Brother Augustine in the filing of the present charges. There was absolutely no financial information to which Brother Augustine was provided from Council 4 which was not financial information available to any member pursuant to the AFSCME Financial Standards Code. Brother Augustine is clearly disgruntled with the leadership of Local 884. He acted outside the lines when he contacted and interviewed with the Yankee

Institution, an anti-union, right-wing organization. However, that has nothing to do with the legitimacy of the charges he has brought against the leadership of Local 884. Those charges rise or fall based upon the facts set forth in the present case. Lastly, the excuse that the leadership of Local 884 was disgruntled with the service provided by Council 4, and that somehow legitimizes the failure to pay per capita, is likewise, absurd.

The related charge that members were not provided accurate financial reports are also found by the undersigned to be credible. Local 884 recording secretary, Sister Joy Dunston, testified that she attended most of the executive board and membership meetings of Local 884. She testified that treasurer reports were not provided by the secretary treasurer at every meeting. She added that more treasurer reports were provided in 2018, but there was due to sickness and personal tragedy, no more than a few treasurer reports were given. Sister Lichtenberg addressed the personal issues of the secretary treasurer as the reason for the late and irregular payment of per capita taxes to Council 4. This excuse rings hollow. This is not a case of an occasional failure to remit the per capita dues on time. Between January 2018 and March 2019, only one check was written by Local 884 to Council 4, the \$27,265.50 check in June 2018 which cut their debt to Council 4 approximately in half. By February 2020 the arrearages were \$89,181.90. If the treasurer were temporarily unable to perform his duties, it was required that the executive board step in and take the appropriate remedial action.

What was particularly troubling to the undersigned was that Brother Barr testified (in uncontroverted testimony) that during the period of per capita delinquency, the officers of Local 884 were still receiving their stipend checks on a regular monthly basis.

The undersigned is appalled that the officers of Local 884 thought it was more important to issue monthly stipend checks to the officers of the local union than to fulfill their constitutional obligations to Council 4 and the International Union.

The charge that the accused parties interfered with Brother Barr in his discharge of duties is also founded. Brother Barr notified the City of New Haven that Local 884 was to move moved to centralized dues. President Rhodes prevented the move to centralized dues from being implemented. She admits in CP-7, the April 2020 letter to Brother Barr, that she told the controller of the City of New Haven that she did not want him to move the local union to centralized dues.

The accused parties are found guilty of violating Article X, Sections 2(A), (F), (J) and (M) of the International Constitution.

The second item of the charge is that the officers and executive board members increased their salaries without seeking membership approval. No evidence was presented on this charge and it is dismissed.

The third charge filed by Brother Augustine is that executive board member and steward, Sister Maria Sterling acted in collusion with management concerning her participation in a grievance filed by Sister Nykya Owen. Sister Owen is an Emergency Operator II, Sister Sterling is an Emergency Operator III. Sister Owen filed a grievance because she believed that the Operator IIs were being held over for mandatory overtime while there were Operator IIIs available for the assignments and should have been assigned first pursuant to the memorandum of understanding. Sister Owen testified that she also objected to Sister Sterling being involved with the processing of the grievance

and she received assurance from Local 884 vice president, Sister Lichtenberg, that Sister Sterling would not be involved in the grievance. However, when she showed up to the grievance meeting with the employer, Sister Sterling was present on behalf of Local 884 and fully participated at the meeting. Sister Owen says that Sister Sterling sided with management against her position at the meeting in Sister Sterling's self-interest as an Operator III.

Sister Sterling testified at trial in the present case. She stated that no one told her not to come to the grievance hearing. Further, she denies siding with the employer or arguing against the memorandum of agreement. She also testified that before and since the grievance, she has been mandated for overtime assignments.

The evidence shows that Sister Sterling, as an Operator III, worked mandated overtime assignments. The testimony of Sister Owen and Sister Sterling are both credible regarding what occurred at the grievance meeting. There is not enough evidence to determine that Sister Sterling violated Article X, Section 2(D) of the International Constitution. Item three of the charge is dismissed.

DECISION

Accused parties, Doreen Rhodes, Lore Lichtenberg, Joy Dunston, Carl Alford, Kassi Young, Dion Bordeaux, Earl Carthens, Maria Sterling and Michael Whitty are found guilty of violating Article X, Sections 2(A) and (M) of the International Constitution, relative to part of Charge 1 -- the failure to remit per capita tax in a timely fashion, the failure to provide accurate and timely financial reports to the membership, and the filing of false per capita reports. The penalty assessed against Sister Rhodes, Sister Lichtenberg,

Sister Dunston, Sister Young, Sister Bordeaux, Brother Carthens, Sister Sterling, and Brother Whitty, is a severe reprimand and an order not to repeat the violations which gave rise to the charges. The penalty assessed against Brother Alford, the secretary treasurer of Local 884, for this portion of Charge 1 is removal from office and suspension from the right to seek or hold elected office at any level of Federation for a period of two years.

Accused parties Doreen Rhodes, Lore Lichtenberg, Joy Dunston, Carl Alford, Kassi Young, Dion Bordeaux, Earl Carthens, Maria Sterling and Michael Whitty are found guilty of violating Article X, Sections 2 (F) and (J) of the International Constitution, the refusal or deliberate failure to carry out legally authorized decisions and the interference with an official of a subordinate body in his discharge of his lawful duties. This stems from the refusal and prevention by President Rhodes regarding Brother Barr's efforts to move Local 884 to centralized dues. The penalty against Sister Lichtenberg, Sister Dunston, Brother Alford, Sister Young, Sister Bordeaux, Brother Carthens, Sister Sterling, and Brother Whitty is a severe reprimand and an order not to repeat the circumstances which gave rise to the charges. The penalty assessed against President Rhodes for this portion of Charge 1 is removal from office and suspension of the right to seek or hold any elected office at any level of the Federation for two years.

All other charges are dismissed.

October 26, 2020
Washington, DC

Richard Abelson
Judicial Panel Chairperson
AFSCME, AFL-CIO

Judicial Panel Chairperson
1625 L Street NW
Washington DC 20036-5687

Pursuant to Article X, Judicial Procedure of AFSCME International, the undersigned as a member of Local 884 which is affiliated with Council 4 hereby file the following charges. These charges are filed against the Executive Board individually and collectively, the members are:

Doreen Rhodes President

Lore Lichtenberg Vice President

Joy Dunston Secretary

Carl Alford Treasurer

Kassi Young Executive Board

Dion Bordeaux Executive Board

Earl Cart hens Executive Board

Maria Sterling Executive Board

Michael Whitty Executive Board

It is further requested that the charges be heard by the International Judicial Panel during the initial jurisdiction.

The individuals are individually and collectively operating in violation of the Local 884 and International Constitutions but not limited to, in the following manner:

Local 884 Constitution Article III Sections 1 and 2, failure to advise, represent by advising the members prior to and during disciplinary and grievance hearings in accordance with their rights under the Constitution and Collective Bargaining Agreement

Article VII Sections 1-5 Duties of Officers and Executive Board members; Failure to pay per capita taxes in a timely manner to the Council and International, failure to accurately report the finances of the local to the membership and to make financial information available to the members.

The individuals are individually and collectively operating in violation of the International in the following manner:

Article X Section 2A Violation of any provision of this Constitution...The officers have repeatedly refused to comply with requests to turn over information, such as minutes and financial to the Council, have refused to comply with per capita payments in a timely and accurate manner.

Article X Section 2B Misappropriation, embezzlement, or improper or illegal use of union funds, by not filing per capita payments in a timely manner and an accurate reporting of the membership, compensation in the way of salaries that was not approved by the membership.

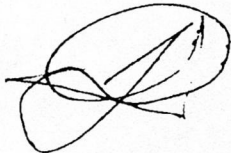
Article X Section 2D Acting in collusion with management to the detriment of the union or its membership, President with the knowledge of other officers refused to comply with the central dues requirements of the constitution upon notification from Council 4 and worked with management to deny that compliance from occurring.

Article X Section 2F Refusal or deliberate failure to carry out legally authorized decisions of the International Convention..., The Board members individually and collectively refused to furnish the requested financial documents and supporting minutes when requested by the Executive Director of Council 4 in accordance with this constitution.

Article X Section 2J Deliberately interfering with any official of the Federation or subordinate body..., refusal to adhere to requests/directives to conduct the business of the local in conformance with the Constitution(s)

Article x Section 2M knowingly submitting a false per capita tax..., by delaying the payment of per capita payments for months on numerous occasions, the accuracy of said documents is unknown, no financial reports available to the membership for months, the payment accuracy of per capita is unknown

It is with great frustration that I sign my name to this document, as a member of Local 884 AFSCME I'm left with no alternative as all that I ask is that the elected Board members comply with doing what is right on behalf of the membership.



SR
2020

Justin M. Augustine