

**SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR SAN JUAN COUNTY**

COUNTY CLERK OFFICE
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DEC 10 2019

LISA A. HENDERSON
SAN JUAN COUNTY, WASHINGTON

THE LAW OFFICE OF JAMES P.
GRIFO, LLC; a Washington State
Limited Liability Company; and, THE
LAW OFFICE OF NICHOLAS
POWER PLLC, a Washington State
Professional Limited Liability
Company,

Plaintiffs,

v.

AMERICAN FEDERATION OF STATE,
COUNTY, AND MUNICIPAL
EMPLOYEES, a labor union; WALTER
BLAIR, as purported administrator of
Local 114; COLIN MAYCOCK, as a
member of Local 1849, President of Local
1849, and as a member of American
Federation of State, County, & Municipal
Employees; LOCAL 1849, a Labor Union
operating in the State of Washington,

Defendants.

Case No. 19-2-0517928

**DECLARATION OF
COLIN MAYCOCK, PRESIDENT
OF LOCAL 1849**

I, Colin Maycock, hereby declare as follows:

1.1 I am a Defendant in the above-captioned matter. I am of legal age, and
I have personal knowledge of each fact stated in this declaration, to which I could
and would competently testify if called as a witness in this matter. I am a dues-
paying member in good standing of Local 1849, American Federation of State,
County, and Municipal Employees, (AFSCME), American Federation of Labor and

Congress of Industrial Organizations (AFL-CIO), and I am also the President of Local 1849, AFSCME, AFL-CIO.

1.2 I submit this declaration in response to the Plaintiff's Case.

1.3 I believe that my interests are adverse and distinct from AFSCME.

1.4 I believe that Local 1849's interests are adverse and distinct from AFSCME's.

1.5 AFSCME International and its subordinate organizing body, Council 2 Washington State Council of County and City Employees, (WSCCCE), are organizations that violate the rights of their members.

1.6 AFSCME International and its subordinate organizing body, Council 2 WSCCCE violate their respective constitutions (Exhibit 1 a-d).

1.7 Exhibit 1 includes:

1.8 A judgement from AFSCMEs Judicial Panel stating, in part, that members are not entitled to a "full and clear accounting of all union funds at all levels" as stated in Item 6 of the AFSCME Bill of Rights. The decision states that members are only entitled to the information that the organization chooses to provide (Exhibit 1a, pages 10 and 11). This decision was upheld in a ruling issued in April, 2019, by the full Judicial Panel.

1.9 A decision from the Judicial Panel investigation regarding the 2019 Council 2 convention and elections (Exhibit 1b).

38 1.10 This decision found that WSCCE Council 2 had actively suppressed
39 members right to free speech (Exhibit 1b, page 5).

40 1.11 This decision found that despite the clear constitutional prohibition on
41 scheduling a statewide convention for August, the convention scheduled for the first
42 weekend in August was properly convened (Exhibit 1b, page 3-4).

43 1.12 An email from Chris Dugovich stating that dues paying members of
44 Local 1849 were not allowed to attend a union function that was open to all other
45 union members (Exhibit 1c).

46 1.13 A decision from the full judicial panel reversing their previous
47 decisions following the intervention of President Lee Saunders, subsequent to case
48 W.D. WA No. 2:19-cv-00562 having been filed in Federal Court and despite the
49 absence of new pleadings (Exhibit 1d).

50 1.14 AFSCME International and its subordinate organizing body, Council
51 2 WSCCCE, violate their internal complaint resolution procedures (Exhibit 2)

52 1.15 Exhibit 2 is a letter from Lee Saunders, president of AFSCME
53 International directing the Judicial panel to reconsider their decision regarding the
54 interpretation of Item 6 of the AFSCME Bill of Rights. (The intervention of the
55 president in Judicial Panel proceedings is not part of AFSCMEs internal dispute
56 resolution process.) This letter was issued only after Case W.D. WA No. 2:19-cv-
57 00562 was filed with the federal court.

1.16 AFSCME International and its subordinate organizing body, Council 2 WSCCCE routinely slander members. During two distinct union meetings with multiple witnesses present, Council 2 director, Chris Dugovich stated publicly that Colin Maycock was working for the Freedom Foundation. When challenged, Mr. Dugovich could not provide any evidence to support his claim.

1.17 I believe that my personal interests are adverse and distinct from AFSCME's.

1.18 I consider all of my communications with Grifo and Power confidential and subject to attorney-client privilege. I would never have communicated freely if I had known AFSCME International or WSCCCE Council 2 would have knowledge or access to my attorney-client privileged communications.

1.19 I and Local 1849 engaged James Grifo and Nicholas Power to represent our interests in a case that involved a request for judgement that was adverse to WSCCCE Council 2 and AFSCME International. I and Local 1849 are satisfied with the actions of James Grifo and Nicholas Power in the pursuit of that case.

1.20 I and Local 1849 communicated freely with James Grifo and Nicholas Power because we understood our communications were privileged and would not

77 be shared with people whose interests were adverse to the interests of the local and
78 myself.

79 1.21 AFSCME International has seized control of Local 114 and removed
80 all of its elected officers.

81 1.22 Now through their unilateral declaration of administratorship,
82 AFSCME International is now claiming to be a client of Power and Grifo.

83 1.23 Regardless of the questions regarding the propriety of the
84 administratorship of Local 114, the protection of attorney-client privilege must
85 remain for the members of Local 1849 and myself.

86 1.24 I have confidence in the ability of Grifo and Power and I personally
87 was completely satisfied with their representation of me. As the President of Local
88 1849 I was completely satisfied with their representation of our local bargaining
89 unit.

90 1.25 The information that our Local was requesting is summarized as basic
91 financial information of the activities of WSCCCE Council 2, such as the number
92 of employees, the compensation packages of those employees, what the employee's
93 duties were etc.

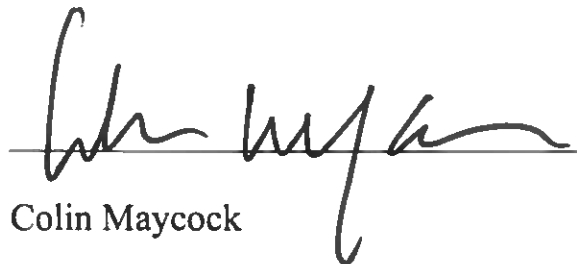
94 1.26 This conduct is outrageous. Attorney Younglove is masquerading as
95 Local 114 and pretending to be acting in Local 114's interest yet he has been hired

96 by AFSCME International in a retaliatory move to strike back against, discover,
97 and suppress dissenters. These actions bring discredit to the whole legal profession.

98 1.27 To permit the release of the client file to representatives of AFSCME
99 International and Council 2 will have a chilling affect on all future Union members
100 who have the courage to voice dissent and pursue legitimate claims in the future.

101
102 I declare under penalty of perjury under the laws of the State of Washington that
103 the foregoing is true and correct.

104 DATED Tuesday, December 10, 2019.

105
106 
107 Colin Maycock



Lee Saunders
President

Elissa McBride
Secretary-Treasurer

Richard Abelson
Judicial Panel Chairperson

Judicial Panel Members

Mark Frymoyer
Des Moines, IA

Debra Garcia
Indianapolis, IN

Sheila Hill
Catonville, MD

Keith January
Detroit, MI

Gerard Jolly
Grove City, OH

Theodorah McKenna
Los Angeles, CA

Dayton Nakanelua
Honolulu, HI

Jim Tucciarrelli
Staten Island, NY

Steve Tully
Jersey City, NJ

Tamara Twardoski
Helena, MT

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

January 4, 2019

Colin Maycock
PO Box 432
Friday Harbor, WA 98250

Chris Dugovich
PO Box 750
Everett, WA 98206

Re: JUDICIAL PANEL CASE NO. 18-80
Maycock v. Dugovich et al

GREETINGS:

Enclosed is Judicial Panel member Theodorah McKenna's decision in the above-captioned case.

In Solidarity,

Richard Abelson
Judicial Panel Chairperson

RA:spp

cc: Lee Saunders, President
Elissa McBride, Secretary-Treasurer
Joseph Guzynski, Regional Director O&FS
Ron Fredin (accused party)
J. Pat Thompson (accused party)
Kathleen Etheredge (accused party)
Ed Stemler (accused party)

JUDICIAL PANEL CASE NO. 18-80

Maycock v. Dugovich et al

This case involves charges filed by Colin Maycock against Chris Dugovich, Ron Fredin, J. Pat Thompson, Kathleen (Etheredge) McConnell and Ed Stemler. All parties except Ed Stemler are members of the Washington State Council of County and City Employees Council 2 executive board. Brother Stemler is the Council 2 staff attorney. Council 2 is affiliated with the American Federation of State, County and Municipal Employees, AFL-CIO.

The Judicial Panel assumed original jurisdiction over this matter on September 13, 2018, pursuant to Article X and XI of the International Constitution.

The case was assigned to Judicial Panel Member Theodora McKenna after the parties were given an opportunity to strike names from a list of Judicial Panel members pursuant to Article XI, Section 8 of the International Constitution. Following due notice to all interested parties, the hearing was held in Everett, Washington on November 13, 2018. All testimony was given under oath and a complete transcript of the proceedings was made by a professional court reporter.

THE PARTIES

Charging party (CP) Colin Maycock was present and was represented by counsel. Accused parties (AP) Chris Dugovich, Kathleen (Etheredge) McConnell and Ed Stemler were present and were represented by counsel. Accused parties Ron Fredin and J. Patrick Thompson were not present. At the request of AP counsel and with the agreement of CP counsel, APs Brother Fredin, Brother Thompson, and Sister (Etheredge)

McConnell were dismissed as APs on the record. In addition, at the request of AP counsel and with the agreement of CP counsel, charge 1 against Brother Stemler was dismissed.

THE CHARGES

(See attached)

EVIDENCE IN SUPPORT OF THE CHARGES

Brother Maycock testified that he has been the president of Local 1849 for 9 years, and a member of the Council 2 executive board for 3 years. As a board member he believes his primary duty is to determine policy and political decisions, and as a subordinate element of that, to approve the budgets on an annual basis. He also identified part of his charge in this role is to ensure that members' dues are being spent appropriately. With respect to Charge 1, he testified that a member came to him with concerns about something he found on the web. Subsequently, Brother Maycock did some research on his own and on June 21, 2018 drafted a letter to Brother Dugovich as President/Director of Council 2. This letter, entered into evidence as CP-1, noted that Brother Maycock had obtained information on a "Freedom" Foundation website about Brother Dugovich's compensation package, which he then attempted to verify by accessing records from the Department of Labor and the IRS. He also obtained information regarding the compensation package of the Executive Director of AFSCME Council 28 and wrote that "...the members deserve an explanation of...why your remuneration is considerably larger than anyone else in a similar position in AFSCME." He then provided a list of financial data that he wished to be provided to him, as well as

records about requests for legal assistance that had been submitted to the Council, and testified that he had been told that he would not get this information.

A document called "2019 Budgets" was submitted into evidence as CP-4. Brother Maycock testified that this document is representative of what the board receives the night before they approve a budget, that the yearly total is provided for Salaries and Wages, but that he could not determine from this how many individuals would be paid based on that information. He testified that it "...would be an important discussion to have...to determine the level of services that are being provided, whether it's cost-effective...whether...this is an appropriate sum...and was a prudent expenditure of members'...dues." (TR 38)

With respect to Charge 2, CP-5 was submitted into the evidence. It is a June 21, 2018 letter from Brother Maycock to Brother Stemler, which Brother Maycock described as, "...Requesting information regarding total number of cases that are being submitted to Council 2 for evaluation, and...a breakdown of the number that have been either arbitrated or rejected." (TR 39) Brother Maycock testified that members he represents had expressed concerns to him about Council's 2 provision of legal services, including, "...the issue that came up with 114 and an unfair labor practice that was refused by Council 2...We certainly had a number of issues...that were withdrawn without...what I would consider...appropriate discussion with the group." (TR 41) He further testified that, "...Mr. Stemler represents 16,000 workers and that's a lot of people with a lot of potential issues...it's a question of what's the workload...and whether...we might actually need another attorney." (TR 42) Brother Maycock testified that he had not received a written response to his letter.

With respect to Charge 3, CP-6 was submitted into evidence, it is an email of December 17, 2017 sent by Brother Dugovich to the Council 2 executive board members informing them that Brother Stemler had accepted the General Counsel position formerly held by Audrey Eide, who had retired or would shortly be retiring. Brother Maycock testified that he was not aware of Brother Stemler's hiring having been discussed with the executive board, and was not aware of Brother Stemler ever meeting with the executive board. He did not have an opportunity to review Brother Stemler's professional experience prior to his hiring. CP-7, minutes from the January 26, 2018 finance committee and January 27, 2018 executive board meetings, was submitted into evidence "Just to show that there was no action taken...by the executive board..." to ratify the hiring of Brother Stemler. (TR 44)

It should be noted that both the charging party and accused party provided other testimony and evidence; however, anything that occurred or any document that was dated subsequent to the filing of the charges in this matter will not be taken into consideration.

EVIDENCE IN REFUTATION OF THE CHARGES

Under cross-examination, Brother Maycock testified on the issue of why he included the salary information of the Council 28 Director in his letter to Brother Dugovich. He testified that "...it seemed like a comparable position..." but he conceded that he did not know anything about the specific duties between the two councils. He acknowledged that Brother Dugovich's compensation may be justified. (TR 49)

He further testified that as a board member for three years, he had been given a great deal of financial information about the council at each of the executive board

meetings. He testified that he had acted as an individual rather than trying to get the board with him on his demands for information prior to sending the letter of June 21, 2018 primarily because, "...Getting hold of their contact information is not easy...not accessible...The only reason I got any of their addresses is because their names and places of work are printed in the quarterly newsletter." (TR 52) He testified that he had requested and was provided time at the July 2018 executive board meeting to discuss the matter but the executive board members' concern went to having been contacted at their work addresses, and the potential for the communication to become part of public record. The board took no action to support his demands for information. He acknowledged under cross-examination that the board did take action in July to table the discussion of salary and benefits until the October meeting, when that is traditionally done, but that he did not wait until then to file his charges. He also testified that he was aware of the finance committee meetings but did not attend them, and that he did not know if that is generally where financial information is discussed. He testified that he was not familiar with the AFSCME Financial Standards Code.

AP Witness Pat Miller testified that he is the president of Local 2170 and has been a Council 2 executive board member for 7- 8 years. He further testified that the Council finances are part of a packet they receive at executive board meetings, which includes information about where Council 2's revenue comes from, categories of expenditures, and how much is in the account. He had received Brother Maycock's letter at his place of employment, which infuriated him, because that mail gets opened by administrative staff, and because it felt like an attack, "...Any letter that poses Freedom Foundation information in it sends a knife in my gut. That organization is not a friend of labor...I

personally get attacked a lot as a public employee. My wages are very public...I work hard, my team works hard, every union member I know works hard. And when you attack wages, it just...boils me." (TR 103 104) He did not recall Brother Maycock raising financial issues prior to sending that letter. When the issue was brought up at the July 2018 meeting, it was tabled until the October meeting, where finance and budget matters are generally taken up. At the October meeting, no motion was made to take up the demand for information. Brother Miller testified, "I have faith in our leadership and support it." (TR 100) With respect to the matter of the board ratifying hirings, he testified, "There is no procedure that I can recall...for the board to take a vote on whether Susie or Joey gets hired. It's just the board gets informed that we've made this hire, welcome aboard." (TR 101)

AP Witness Conni Uhinck testified that she is vice-president of Local 1308 and has been on the Council 2 executive board for 20-22 years. She also served on the finance committee for two years. When she received Brother Maycock's letter at her workplace, she thought that Brother Maycock had a beef with Council 2 and that letter coming in the same week that the Janus decision came down gave it, "...A little smell of Freedom Foundation and it bothered me and it concerned me." (TR 121) She testified that Brother Maycock had not previously spoken to her about the information he was requesting, and that at the October meeting, the board did not take any action to support Brother Maycock's demand for information. She further testified that she has gotten a packet at every meeting, has reviewed a great deal of financial information about Council 2 over the years, including aggregate information about salaries and benefits and feels that information is sufficient for her to perform her role as an executive board member. She

testified that the board votes to approve the aggregate budget, but does not vote on individual salaries.

Also under cross-examination, regarding Brother Maycock's local's legal matters, AP counsel obtained acknowledgement from Brother Maycock that in the "skimming" case, a witness had stated that it had not been bargaining work and that Brother Stemler had explained that they could not go forward with an unfair labor practice unless it had been bargaining work. AP counsel also obtained acknowledgment from Brother Maycock that Brother Stemler had provided a written explanation of why the cases were dismissed. AP-1 was submitted into evidence, which is a multi paged email of May 24, 2018 from Brother Stemler to Brother Maycock and others on this matter. With respect to his request for all records or files of legal discussions, Brother Maycock testified that he had believed that Local 1849 was Brother Stemler's client, and only later understood that there could be attorney-client privilege attached to individual cases, and would therefore drop that aspect of his charge. He testified that he had made his request for legal information as an individual, that the request had not been made by the board as a body.

With respect to Charge 3, upon cross-examination, Brother Maycock testified that during his time on the executive board, no vote was taken to ratify anyone's hiring. Brother Pat Miller, Local 2170 President, testified that the executive board does not handle or monitor the day-to-day operations of Council 2.

Brother Chris Dugovich testified that he has been president of Council 2 since 1989, and his responsibilities include directing the staff, operating the budgets, overseeing the negotiations of 174 contracts, taking care of the health and welfare trust as well as a

building corporation. (a for-profit entity consisting of five buildings across the state which make money) He did not recall Brother Maycock asking for any financial information prior to sending his letter of June 21, 2018. He did recall a lot of interaction about the skimming unfair labor practice and also the unit clarification issue, and testified, "We did our best to explain to Colin why we didn't have a case." (TR 137) Brother Dugovich also testified that at the finance committee meetings, which are scheduled on the Friday afternoon before the Saturday board meeting, "...There's a much more in-depth process in regards to a new budget or...the yearly audit...All those things are gone over, questions are asked. We try to answer to the best of our ability." (TR 142) He testified that the finance committee has the opportunity to recommend or not recommend the final product, such as a budget, that goes to the board, and the board has the opportunity to approve or disapprove. He testified that when he received Brother Maycock's letter, he said that he was not going to provide that in-depth information on individuals, and that he told Brother Maycock he could have time at the July meeting to bring up the issues. When Brother Maycock did so, the board chose to table the discussion until the October meeting, when they prepare the following year's budget. An excerpt from of the AFSCME Financial Standards Code, Article X, Confidentiality of Financial Records, was taken into evidence as AP-8. Brother Dugovich testified to having concerns that the specific financial information requested by Brother Maycock would be detrimental to the welfare of the union, in that, "I had already seen where he had created issues for us in regards to mailing out the charges and basically stating them as fact...Those are all unfair statements that can be very much harmful at this point." (TR 157) With respect to Brother Maycock mentioning the "Freedom Foundation" in his letter,

Brother Dugovich testified that, "This organization is clearly out to make sure we don't exist. They don't want Colin or any other of our members to make a living or a pension or have healthcare benefits. They state that on their website." (TR 172). Brother Dugovich testified that he thought that Brother Maycock brought his charges in retaliation "...for us not going to hearing on the two cases in San Juan County." (TR 158) With respect to the requests on the legal matters, Brother Dugovich testified that that there is a lot of confidential information in those files, that he never felt it right to reveal that and make it a topic of discussion and that part of his job is to protect the organization from lawsuits. In addition, it had not been his past practice to ask the former General Counsel, Audrey Eide, to provide statistics about the work that was done, because "...it becomes a quota system for some...of course I watched her caseload, looked at the cases, discussed them." (TR 160) He further testified that every quarter the board gets a synopsis of the cases they've gone to hearing on and what the resolution was. He testified that, "The difficulty with the ones that we don't go to hearing on is that they're settled at many different levels." (TR 160) He further testified that, "...decisions on the cases have to be based on the merits. It can't be based on a popularity contest or a quota system..." (TR 200) Brother Dugovich stated, "I don't make those decisions lightly...We look at those cases very closely, we seek legal opinions. Sometimes we even go outside for legal opinions. In the regard of his two cases, we had two attorneys look at them." (TR 202)

With respect to Charge 3, Brother Dugovich testified that he has done the hiring for Council 2 for 29 years, and that the only "ratification" that occurs is that the board has approved the budget containing the line items for the positions. The executive board does not then vote again to approve individual hirings.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The basis of the first of the three charges filed by Brother Maycock is his assertion that Council 2 Executive Director Chris Dugovich deliberately withheld critical financial information requested by Brother Maycock in his letter of June 21, 2018. It was Brother Maycock's contention that he requested the information based upon an inquiry from a member who had gotten some information from a Freedom Foundation website, including information about Brother Dugovich's compensation package, and that the information he requested was needed for him to fulfill his duties as an executive board member. It was undisputed that Brother Dugovich did not provide the information. The charging party's counsel attempted to frame this matter as being about the intersection between transparency and fear; it is not. It is solely about whether the constitution was violated when Brother Dugovich did not provide the information as requested.

First, Brother Maycock believes that the AFSCME Bill of Rights for Union Members was violated, specifically, Item 6:

"Members shall have the right to a full and clear accounting of all union funds at all levels. Such accounting shall include, but not be limited to, periodic reports to the membership by the appropriate fiscal officers and periodic audits by officers elected for that purpose or by independent auditors not otherwise connected with the union."

So what is a "full and clear accounting?" The examples given within this provision, of *periodic reports to the membership* and *periodic audits*, describe the formal and routine provision of information to subordinate bodies, not individuals, via reports. In the opinion of the undersigned, it is a misinterpretation of this provision to believe it

requires union leadership to provide separate reports to individuals based on criteria developed by those individuals, upon request. Brother Maycock, as an executive board member, was regularly provided with packets of financial information and had the opportunity to ask questions about this information, and to vote for, against, or abstain from voting on any budget proposals. There was credible testimony that he did not ask those questions prior to drafting his June 21, 2018 letter, although he had that right. By his own admission, he was not familiar with the AFSCME Financial Standards Code and did not attend the finance committee meetings which other executive board members attended, which were other avenues by which he could have learned more about the financial workings of the Council. Given all the ways in which information was available to Brother Maycock, it is clear that his rights under this provision were not violated.

Next, Brother Maycock alleges a violation of the Council 2 Constitution, Article VIII, Section 3(C):

"The executive board shall authorize and approve all expenditures of the funds of the state council."

No evidence was provided that showed that any expenditures were made by Council 2 that had not been authorized and approved the the Council 2 executive board. There was clear testimony that the executive board votes every October to approve the budget for the following year, a process which is preceded by a review of the budget by the finance committee. As indicated previously, if in his role as an individual board member Brother Maycock believes that he lacks sufficient information to ethically carry out his duties, he has numerous options. He can attend the finance committee meetings; he can ask questions at board meetings; and if and when he believes he does not have sufficient information to vote to approve expenditures, he can choose to vote no or

abstain from voting. The provision above does not require that each and every board member vote affirmatively to approve the expenditures. It requires the board as a body to do so. Brother Maycock's rights under this provision were not violated.

Finally, for Charge 1, Brother Maycock alleges a violation of the Council 2 Constitution, Article VIII, Section 3(E):

"The executive board, and under its direction, the president, shall have the supervisory authority over the acts and doings of all officers, committees, and representatives of the state council to the extent that it may be ascertained that the duties of those positions are being properly and faithfully performed."

The reasoning in the previous section applies here as well. The thrust of Brother Maycock's argument is that he needs the specific and detailed information he requested in order to fulfill his duties. In citing this provision, he is referring to supervisory authority over officers, committees and representatives. However, again, that authority is vested in the board as a body, not in individual board members. That can certainly be frustrating when the majority of board members don't share one's concerns, but that occurs in all kinds of governing bodies, inside and outside of unions. Brother Maycock's rights under this provision were not violated.

With respect to charge 2, "Deliberately Withholding Administrative Information," referring to Brother Maycock's request for detailed information about legal cases referred to Council 2, including arbitration and hearing approval and denials, the same provision is cited as in the last section for charge 1, above. It should be noted that the evidence showed that the executive board gets a list of all the cases the Council has taken to hearing at the board meetings three times a year, and further, that on May 24, 2018, Brother Stemler provided to Brother Maycock a detailed summary of what occurred with the two cases that Brother Maycock was concerned about, an Unfair Labor Practice for Skimming

and a Unit Clarification case. Brother Maycock also acknowledged that he had come to understand that legal files could not be provided for his review due to issues of confidentiality and privilege. In looking at the chronology, Brother Maycock filed his charges in this matter on August 28, 2018, three months after Brother Stemler provided him with the summary, suggesting that he still believed at that time that he as an individual was entitled to receive aggregate information about other legal cases. How legal resources are distributed and whether the Council is properly resourced relative to the amount of work to be done is absolutely a discussion that could be had by the executive board, but Brother Maycock, as an individual board member, does not have direct supervisory authority over representatives of the state council; therefore, his rights under this provision were not violated.

Lastly, in charge 3, "Maintaining Staff Attorney Without Executive Board Ratification," Brother Maycock alleges a violation of the Council 2 constitution, Article VII, Duties of officers and state council, Section 1, Duties of the President, sub-section B, Administrative Authority and Responsibility of the President:

"Subject to the directions of the Convention and the Council Executive Board, the President shall have full authority over all employees of the Council. The President shall have the authority to suspend or discharge employees of the Council. Employees of the Council shall have the right to appeal to the Executive Board, or the Convention. The President shall have the authority to hire employees of the Council and set their hours, wages, working conditions, and other conditions of employment; these decisions, however, must be ratified by the Executive Board."

In this charge, Brother Maycock takes specific issue with the hiring of staff attorney Ed Stemler. He acknowledged that during his time on the executive board, no votes were taken by the board on any hirings. Brother Dugovich testified that he has done the

hiring for Council 2 for 29 years, and that the only "ratification" that occurs is that the board has approved the budget containing the line items for the positions. The executive board does not then vote again to approve individual hirings. There is a lengthy past practice in place which considers the budget approval as authorization. However, if the executive board, as a body, wishes to consider formalizing a ratification process for individual hirings, above and beyond the budget approval, it appears that they could do so within the language of this provision. This provision was not violated by the accused parties.

DECISION

Brother Dugovich and Brother Stemler are found not guilty of all charges and all charges against them are dismissed.

The accused parties requested a ruling on whether Brother Maycock, in filing these charges, acted in bad faith. Their concerns included Brother Maycock's not bringing the issues to Brother Dugovich or the board ahead of time, sending information to board members' work addresses, and sending what might be considered inflammatory information to a local other than his own. The truth is, only Brother Maycock knows what motivated him, and why he took certain paths in the process rather than others. His actions may have caused some harm, but as a union, we need to be able to withstand being questioned, even about our best practices with which we have grown comfortable. There can be a long learning curve when it comes to union governance, and the undersigned believes it is more prudent to give our member the benefit of the doubt that his information-seeking, even if partly motivated by his perception of possibly receiving

unfair treatment in legal issues, is also in the service, as he claimed, of performing his duties as an executive board member with due diligence.

January 4, 2019
Los Angeles, California

Theodora McKenna
Judicial Panel Member

Colin Maycock, President Local 1849,
AFSCME Council 2, District 1, Executive Board Member
PO Box 432, Friday Harbor, WA, 98250
360-378-6084, colinmay73@gmail.com

21 June, 2018

Chris Dugovich,
President/Director
AFSCME Council 2
3305 Oakes Avenue, PO Box 750
Everett, WA, 98206

Dear Chris Dugovich,

I find myself in a difficult position. Information has come to light that needs to be addressed by the executive board at the next meeting.

Responding to a member's enquiry, I found myself scrolling through the Freedom Foundation's 'Opt Out Today' website and came upon a report stating that your compensation package in 2016 came to \$373,919. Initially I was skeptical, given the source; however, also intrigued. I'm a researcher by nature, so I backtracked through the U.S. Department of Labor and found some older LM2 files as well as the IRS 990 file cited by the Freedom Foundation. Given that these numbers are submitted to the federal government I'm inclined to trust them. (Granted that if anything, they are like to be low balled rather than artificially inflated.)

I did a little further digging and found a portal for further information. In 2017, the Executive Director of Council 28 received a total compensation package of \$176,632. The disparity between the two compensation packages is significant, particularly as both would appear to be very similar jobs.

Article VIII, Section 3 (C) of Council 2's Constitution states; "The executive board shall authorize and approve all expenditures of the funds of the state council." Currently the budget documents regularly presented to executive board members do not provide the

board members with sufficient information to make an informed decision. These documents should clearly outline the total compensation of the members of the executive board as well as the duties and compensation for senior employees whose tasks are not identified in the Constitution.

Council 2 has approximately 30 staff. It is an organization whose sole purpose is to provide services to its members. If your job duties are similar to those of other AFSCME Council executives, the members deserve an explanation of your compensation package of close to \$400,000 of the member's money and why your remuneration is considerably larger than anyone else in a similar position in AFSCME. It is striking that Lee Saunders, President of the International claimed a compensation of \$351,939 in 2015. Please be prepared to provide the executive board and the members an account and justification for what appears to be an unusual compensation package.

As an executive board member who is empowered by the Council 2 Constitution to exercise "supervisory authority over the acts and doings of all officers...to the extent that it may be ascertained that the duties of those positions are being properly and faithfully performed." *Article VII, Section 3, (Functions of the executive board) (D)*, I am requesting the following information for each of the named individuals:

Chris Dugovich, Executive Director

J. Pat Thompson, Deputy Director;

Audrey Eide, Legal Counsel;

Barbara Corcoran, Business Manager

1. The gross wages paid in 2017;
2. The 2017 monthly employer medical contribution;
3. The 2017 annual employer-paid amount of H.R.A. or H.S.A plans;
4. The 2017 annual value of employer-paid per diem;
5. The 2017 annual amount of employer-paid car allowance;
6. The 2017 annual amount of employer-paid pension contributions;
7. The 2017 annual amount of employer-paid contributions to deferred comp plan;

8. The 2017 annual amount of employer-paid contributions to 401-k (or equivalent) plan,
9. The 2017 annual amount of employer-paid post-retirement health plans,

In addition, I am requesting a list of all employees of Council 2 and their job titles.

In a conversation beginning of May, you stated that the Council 2 office does not keep even rudimentary files tracking requests for legal assistance from the locals and their disposition. This is a shocking admission. As the purpose of Council 2 is to provide services, it is inconceivable, that the organization does not track it's workload in any form.

I am also requesting the following information so that I can carry out my duties as an executive board member:

The total number of written requests for legal assistance submitted by locals for the past 5 years; (Given that the office requires a \$250 check from the local prior to consideration, I suspect that the records are not too difficult to compile.)

I would appreciate a complete list of the requests for legal assistance that were rejected and any records that indicate why Counsel Eide determined they should not be pursued.

The list of cases that were litigated will be simple to pull together as they have been listed in each of the executive board meeting materials.

Please provide all of the above records within twenty-one (21) days of receipt of this letter.

As a Union member who has volunteered countless hours to the protection of the members, I pursue this action because I want to improve services to the members not from any desire to harm the Union.

This letter is copied to all members of the executive board.

Sincerely,

Colin Maycock, President Local 1849,
AFSCME Council 2, District 1, Executive Board Member



Lee Saunders
President

Elissa McBride
Secretary-Treasurer

Richard Abelson
Judicial Panel Chairperson

Judicial Panel Members:

Michael DeMarco
Staten Island, NY

Carla Ininga
Harrisburg, PA

Kelth January
Detroit, MI

Gerard Jolly
Grove City, OH

Theodorah McKenna
Los Angeles, CA

Dayton Nakanelua
Honolulu, HI

Steve Tully
Jersey City, NJ

Timm Twardoski
Helena, MT

Andrew Washington
Washington, DC

October 15, 2019

JUDICIAL PANEL CASE NO. 19-65
Council 2 Election Protest

GREETINGS:

Enclosed is my decision in the above-captioned case.

In Solidarity,

Richard Abelson
Judicial Panel Chairperson

RA:spp

cc: Lee Saunders, President
Elissa McBride, Secretary-Treasurer
Walter Blair, Regional Director O&FS
Jeremy Kruse, AFSD
Matt Colston
Polagaya McLaughlin
Kirk Juneu
Colin Maycock
Nick Leininger
Tom Veitch
William Patterson
Andy Wojciechowski
Jael Komac
Shayla Francis
Ken Zangari
James Finn
Amy Lathrop

Donnna DePamphilis
Keith Fredrikson
Don Reitan
Nate Sugg
Anne Cisney
Patty Bonner
Linda Stover
Chris Dugovich
Car Duffy
Brian Earnheart
Jeff Jesmer
Chuck Johnson
Morgan Libby
Sean Hare

JUDICIAL PANEL CASE NO. 19-65
Council 2 Election Protest

The matter concerns a protest of the election for Washington State Council of County and City Employees, Council 2. The election was conducted on August 3, 2019. The timely protest to the conduct of the election was filed by Brother Matt Colston and others, and Sister Polagaya McLaughlin.

The case was assigned to Judicial Panel Chairperson, Richard Abelson, for investigation and decision. The hearing on the protest was scheduled for October 3, 2019 in Everett, WA.

ELECTION RESULTS

(See attached)

REPORT OF THE INVESTIGATING OFFICER

The election protest filed by Brother Matt Colston, et al., and Sister Polagaya McLaughlin raises a number of issues. The significant issues will be discussed separately.

The first issue raised by Brother Colston is that the Council 2 Convention at which the election was conducted was illegally held in the month of August, which is not allowed pursuant to the Council 2 Constitution. The convention was conducted on August 1, 2, and 3, 2019. Article V, Section 1(C) of the Council 2 Constitution states that, "(T)he convention of this council shall be held on a weekend during the month of May, or June, or July, or September, provided it shall not be held on a weekend encompassing

a legal holiday or the second weekend in May (Mother's Day) or the third weekend in June (Father's Day)."

The Constitution does not mention August as a permissible month for the Convention. There are extenuating circumstances. The Convention was originally scheduled in June 28, 29, and 30, 2019. However, because the Convention notice was not sent timely to some of the affiliated local unions, and objections were raised by some of the same protestants in the present case, those Convention dates were cancelled. Council 2 president, Chris Dugovich, testified at hearing that officials from Council 2 entered into discussions with the Convention hotel to discuss alternatives in which the Council would not lose up to \$120,000.00 which it had committed for the June Convention dates. The alternative offered by the hotel was the August 1, 2 and 3 dates with no financial penalty.

Article V, Section 1(C) of the Council 2 Constitution also states that, "The president, in consultation with the officers shall select the dates. The selection date of the convention shall be made in time to notify all member locals and chapters four months in advance." The record is undisputed that President Dugovich held a conference call, shortly after the error in the notice of the June 28, 29, and 30th Convention was discovered, with the members of the executive board. It was the unanimous decision of the executive board to hold the rescheduled Convention on the August dates. Protestant Colin Maycock, then a member of the executive board, participated in the conference call and voted in favor of having the Convention on the August dates. Subsequently, on July 12, 2019, Brother Maycock wrote to Council 2 that it was impermissible to hold the

Convention on the August dates selected. Brother Maycock testified at hearing in the present case that he did not discover the language of Article V, Section 1(C) of the Council 2 Constitution until shortly before he wrote the letter. By the time Brother Maycock raised his objection on July 12, 2019, there would have been no time to give the required 90 day notice to the officers, board members and each affiliated local and chapter as required in Article V, Section 1(D) of the Council 2 Constitution, and to hold the Convention by the end the September, 2019, the last constitutionally provided month during which to hold the Convention. It is noted that the record in the present case is silent regarding whether the hotel venue offered any September, 2019 dates to reschedule the Convention.

Cancelling the August dates for the Convention and holding the convention in the next constitutionally permissible month providing three months' notice as required in Article V, Section 1(D) of the Council 2 Constitution, would have meant delaying the Convention until May, 2020. This would have in turn would have triggered a violation of Article V, Section 1(A) of the Council 2 Constitution, which requires the Convention to held in odd-numbered years. Additionally, there was the possible loss of a significant amount of money. Lastly, delaying the Convention until May, 2020, would have illegally extended the terms of office for the incumbent officers well beyond their expirations.

In determining that it was not inappropriate, in view of the above considerations, to conduct the Convention on August 1, 2, and 3, 2019, the undersigned considered one additional factor. The record in the present case shows that attendance at the August, 2019 Convention had more delegates, representing more local unions and chapters, and

casting more votes, than the 2017 Council 2 Convention. Therefore, the August convention dates did not adversely impact turnout for the election. This item of the protest is dismissed.

The next item of the protest is that Brother Keith Fredrickson, a declared candidate for a District 1 executive board position, was prohibited from distributing an election flyer at a March 8 and 9, 2019 Council 2 Legislative Conference. Post-hearing a copy of the campaign flyer was sent to the undersigned. The flyer declares Brother Fredrikson's intent to run for the Council 2 executive board position, articulates his credentials and his reasons for running, and further articulates deficiencies in transparency focusing on the salary of the Council 2 executive director (President Dugovich), comparing his salary to the salaries of the executive directors of Washington State Council 28, and Oregon Council 75. Brother Fredrickson testified that he was barred from distributing his flyer by Council 2 staff. President Dugovich testified that at the March 8 and 9, 2019 Legislative Conference, the executive board of Council 2 passed a motion which prohibited the distribution of literature which contained information found on the websites of anti-union organizations such as the Freedom Foundation, which included his salary information.

Brother Fredrickson testified that because of his experience at the March 8 and 9, 2019 Legislative Conference, where he was barred by Council 2 staff from distributing his campaign literature, and the motion passed by the executive board which banned the distribution of literature which contained information found on the websites of anti-

union organizations, he did not attempt to send out a mailing or distribute any campaign flyers at the August Council 2 Convention. Brother Fredrickson testified that these actions had a chilling effect on the candidates' ability to campaign for office. The undersigned agrees.

The right to freely campaign and equal opportunity for competing candidates is guaranteed in the Bill of Rights for Union Members contained in the International Constitution. The uncontroverted right to free speech is also guaranteed. The undersigned was not provided with a copy of the motion passed by the Council 2 executive board which severely and improperly limited the information a candidate could put in a campaign flyer. However, President Dugovich testified as to the content of the motion, and the motion clearly violates the Bill of Rights for Union Members contained in the International Constitution, and the Elections Code, Appendix D of the International Constitution. It is noted that Brother Fredrickson testified at hearing that he discovered the salary information for Brother Dugovich and the executive directors of Council 28 and Council 75 from the IRS 990 forms which are readily available online, not through the Freedom Foundation website. This fact makes the barring of his campaign leaflet even more egregious.

This item of the protest is upheld, and the elections are accordingly vacated and ordered rerun.

The next item of the protest is that staff improperly ran as delegates to the Council 2 Convention, and improperly solicited and carried proxy votes of locals and chapters.

The Council 2 Constitution contains no restrictions regarding Council staff joining local unions or serving as delegates for local unions and/or chapters. In the absence of such restrictions, it was proper for Council staff to run for delegate in their local unions. It was also proper for them to carry proxy votes for other locals or chapters in accordance with the Council 2 Constitution. This item of the protest is dismissed.

An additional related issue concerns whether staff improperly used union resources to encourage locals and chapters to send their votes by proxy to the Convention, and further, whether they improperly solicited carrying local and chapter proxy votes for such locals and chapters. It is entirely appropriate for Council 2 staff to encourage local unions and chapters to send their votes by proxy in the event such locals and chapters do not intend to send delegates to the Convention. Such activity is part of the responsibility of Council 2 staff.

The incidents involving staff soliciting locals and chapters to send their votes with them also does not cross the line in the present case. Staff indicating that he/she has been elected a delegate from his/her local union and merely offering to carry a local's or chapter's votes does not indicate any coercion or improper use of union resources. Brother Ken Zangari, the president of Local 114WD testified at hearing that he was asked by Staff Member Joe Downs about his chapter's proxy votes. He further testified that he chose to not send his chapter's votes with Brother Downs because he was uncomfortable with Brother Downs carrying the votes when his boss, President Dugovich, was running for reelection. Brother Downs testified that he sent his chapter's votes with Sister Jael

Komac, the president of Local 114, who actively opposed President Dugovich's candidacy. There is no evidence that union resources were improperly used for campaign purposes, and this item of the protest is dismissed.

The next item of the protest is that the nominating caucuses, which were scheduled to begin at 12:15 p.m. pursuant to the rules adopted by the Convention, instead began at 12 noon. It is uncontested that the change was initiated by decision of the presiding officer, President Dugovich. It is a technical violation for the time of the nominating caucuses to have been changed by the presiding officer from the time adopted by the delegates when they adopted the convention rules. However, there is no evidence that any member wanted to be nominated for office and was denied the opportunity to be nominated because of the time change. Therefore, the change had no impact on the outcome of the election and this item of the protest is dismissed. However, in the future, changes to the times for the nominating caucuses adopted by the delegates as part of the convention rules should be adhered to and not altered from the chair.

The next items of the protest are general issues involving the receipt of the election rules; failure to provide a proxy form when requested; candidates and supporters not being allowed to address the Convention; staff and the company hired to conduct the voting improperly setting up voting instead of the election committee; and the incorrect number of ballots being given to delegates. These items are dismissed because of lack of proof and/or directly conflicting credible testimony.

The election committee chairperson, Brother Nathan Sugg, testified that the election committee members supervised all aspects of the election. The vendor hired by Council 2 to oversee the voting, Ballot Point, along with the hotel, set up the room for voting and the election committee approved the setup. Brother Sugg testified that there was a "resolution table" in the voting area to resolve any conflicts or disputes. He testified that all conflicts were resolved. Delegates were also allowed to cast the votes for other delegates at the Convention who voluntarily assigned them their votes. Forms were distributed and had to be signed by those delegates assigning their votes to another delegate. When they appeared for voting, delegates were given separate sheets indicating the number of votes they were carrying for all proxied locals and chapters, as well as for those delegates who assigned them their votes at the Convention. The delegate has to sign off on the sheet for each proxy vote he or she is carrying. Brother Sugg testified that no unresolved issue involving incorrect numbers of votes were raised at the Convention. Brother Sugg also testified that the ballot box was always under the supervision of the election committee and that there was no compromise of the secret ballot. Lastly, Brother Sugg testified that no votes were "preloaded" into the computers utilized by Ballot Point.

Lastly, regarding the issue of candidates and supporters not being allowed to speak on the floor of the Convention, there is no evidence that any candidate or the supporter of any candidate properly sought recognition at the appropriate time to have addressed the Convention. Therefore, there is no violation of the Convention rules.

DECISION

The item of the protest concerning the interference in candidate campaigning is upheld. The election results of the October 3, 2019 contested elections for president of Council 2, District 1 Executive Board Members, and District 2 Executive Board Members are vacated. The candidates for office shall be those nominated for the October 3, 2019 election. In all other uncontested elections, those candidates who were unopposed are certified elected. The rerun elections shall take place no later than 120 days from the date of this decision and appropriate notice in accordance with Article V, Section 1(D) of the Council 2 Constitution shall be sent to each officer, board member, and affiliated local union and chapter.

October 15, 2019
Washington, DC

Richard Abelson
Judicial Panel Chairperson
AFSCME, AFL-CIO

AFSCME Convention Voting System

WSCCE President/Executive Director Election

Official Results

Ballot ending: 08/04/2019 15:00:00 (Eastern)

President / Executive Director (Select 1 Candidate)

Candidate	Votes Received	Percentage
Chris Dugovich	13368	93.70%
William Patterson	899	6.30%
Total Votes Counted	14265	
Minimum Votes Needed	7133	

Winner

Runoff

Ballots NOT Included in Vote Totals:

Vote Type	Ballots	Votes	Details
Blank	3	102	Member made no selection
Voided	0	0	Ballot voided by election committee
Total	3	102	

WITNESS LIST NOT PROVIDED.

Report generated: 08/03/2019 13:29:02 (Eastern)

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BallotPoint
Election Services

Poling
McLaughlin
Paula
Patricia Bionni
Walter Jr

Shirley M. Gaver
[Signature]

AFSCME. Convention Voting System

District 1 Executive Board Members Election

Official Results

Ballot ending: 08/04/2019 15:00:00 (Eastern)

Executive Board Members (Select 4 Candidates)

Candidate	Votes Received	Percentage
Car Duffy	1810	15.42%
Brian Earnheart	2242	19.10%
Jeff Jesmer	1551	13.21%
Chuck Johnson	2189	18.64%
Colin Maycock	763	6.50%
Morgan Libby	1427	12.15%
Kelth Fredrickson	269	2.29%
Sean Hare	1490	12.69%
Total Votes Counted	11741	
Minimum Votes Needed	1458	

Winner

Runoff

Ballots NOT Included in Vote Totals:

Vote Type	Ballots	Votes	Details
Blank	1	5	Member made no selection
Voided	0	0	Ballot voided by election committee
Total	1	5	

WITNESS LIST NOT PROVIDED.

Report generated: 08/03/2019 13:27:43 (Eastern)

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BallotPoint
 Election Services

Patricia Bonner
Wade For
Robert H. Hays
Jeff
Linda M. Stover

AFSCME Convention Voting System

District 2 Executive Board Members Election

Official Results

Ballot ending: 08/04/2019 15:00:00 (Eastern)

Executive Board Members (Select 4 Candidates)

Candidate	Votes Received	Percentage
Jason Canfield	886	7.07%
Carla Rolph	3071	24.52%
Virginia Griesbach	3134	25.02%
Jason Galloway	2470	19.72%
Jessica Lucas	2964	23.66%
Total Votes Counted	12525	
Minimum Votes Needed	1566	

Winner

Runoff

Ballots NOT Included in Vote Totals:

Vote Type	Ballots	Votes	Details
Blank	0	0	Member made no selection
Voided	0	0	Ballot voided by election committee
Total	0	0	

WITNESS LIST NOT PROVIDED.

Report generated: 08/03/2019 13:28:36 (Eastern)

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BallotPoint
Election Services

David Jones *Polgara* *McLean Jr.*
Patricia Bonner *Junda M. Jones*
Nathan Lee *SA*

From: Colin Maycock [mailto:oleaginous73@yahoo.com]
Sent: Friday, October 12, 2018 1:32 PM
To: Colin Maycock; Chris Dugovich; COLIN H MAYCOCK
Cc: TOMANDSUKI@YAHOO.COM; KLWELLER4@GMAIL.COM; William Paterson (williammpaterson@hotmail.com); Ed Stemler; Pat Thompson; Matthew Miller
Subject: Re: Presidents Conference

Mr. Dugovich,

I am a member of the Council 2 Executive Board until replaced in a properly held election. I have not voluntarily stepped down.

I am the president of local 1849 until replaced in a properly held election.

I am member of AFSCME in good standing until I leave the County's employ or I choose to cease paying dues.

I cannot find any provision in the Council 2 constitution that authorizes the refusal of services to Local 1849 nor discrimination against their members.

Your baseless attempt at character assassination is cynical and defamatory. Even you know that it is unfounded.

Please provide citations authorizing Council 2's refusal to provide services to the members of the local within 24 hours.

Respectfully,

Colin

On Thursday, October 11, 2018 11:53 AM, Chris Dugovich <chrisd@council2.com> wrote:

Dear Colin:

I received your e-mail regarding the Presidents Conference.

As you know the full 23 member Council 2 Executive Board passed a motion requesting that you temporarily resign from the Executive Board and directing you and members of Local 1849 not attend the Presidents Conference. Those motions were passed by a 22 to 1 margin taking for granted you voted No.

The E-Board is very concerned about your contact with Attorney Nick Power who is handling cases for the Freedom Foundation 1) your admission to Council 2 staff that you have consulted with Mr. Power; 2) your references to the Freedom Foundation in your correspondence; 3) the strong feeling by individuals in attendance at your Local Union candidate forum that you were backing the endorsement of Mr. Power for San Juan County Prosecutor.

All of the above has created many questions about what you might be sharing with individuals who work for the Freedom Foundation or others outside of Council 2. The information that will be provided at the Presidents Conference is confidential and if it falls in the wrong hands could be used to hurt Council 2 and its members.

You have exercised your rights by filing charges under the AFSCME Judicial Panel against the officers and staff of Council 2. Let that process work.

Please keep in mind Council 2 has attempted several times to reach an understanding on your issues. Myself, Ed Stemler, Pat Thompson and Matt Miller have all traveled to San Juan in the recent past and discussed your concerns. Each overture has been rejected.

In keeping with the motion passed by the Council 2 Executive Board, we will not be making a room reservation or providing any reimbursement for the Presidents Conference for you and Mr. Paterson. If you attempt to attend you will be asked to leave. Please respect the wishes of the officers and

members of the Council 2 Executive Board and do not request that your local union reimburse your expenses for an event you can't attend.

At some future date after your issues have been resolved and assurances are provided that confidential union information is not being shared, Council 2 can recreate the training in Chelan for our membership in San Juan, Local 1849.

Sincerely,

Chris Dugovich
President/Executive Director
WSCCCE/Council 2
425-303-8818
chrisd@council2.com



Lee Saunders
President

Elissa McBride
Secretary-Treasurer

Richard Abelson
Judicial Panel Chairperson

Judicial Panel Members:

Michael DeMarco
Sutton Island, NY

Debra Garcia
Indianapolis, IN

Keith January
Detroit, MI

Gerard Jolly
Grove City, OH

Theodorah McKenna
Los Angeles, CA

Dayton Nakanelua
Honolulu, HI

Steve Tully
Jersey City, NJ

Timm Twardoski
Helena, MT

Sarana Vergin
St. Cloud, MN

Andrew Washington
Washington, DC

June 4, 2019

Colin Maycock
PO Box 432
Friday Harbor, WA 98250

Chris Dugovich
PO Box 750
Everett, WA 98206

JUDICIAL PANEL CASE NO. 18-80-A
Maycock v. Dugovich, et al.

DECISION ON RECONSIDERATION

GREETINGS:

Enclosed is the Full Judicial Panels' decision on reconsideration in the above referenced case.

In Solidarity,

Richard Abelson
Judicial Panel Chairperson

RA:spp

cc: Lee Saunders, President
Elissa McBride, Secretary-Treasurer
Walter Blair, Regional Director O&FS
Ron Fredin (accused party)
J. Pat Thompson (accused party)
Kathleen Etheredge (accused party)
Ed Stemler (accused party)
Danielle Franco-Malone
James Grifo, Attorney at Law

JUDICIAL PANEL CASE NO. 18-80-A
Maycock v. Dugovich, et al.

DECISION ON RECONSIDERATION

The decision in Judicial Panel Case No. 18-80-A results from charges filed by Local 1849 president and Council 2 executive board member Colin Maycock against Council 2 Executive Director Chris Dugovich, and Council 2 General Counsel Ed Stemler, and others who were later voluntarily dismissed by the Charging Party. The charges filed by Brother Maycock were threefold, alleging: (1) the Accused Parties refused to provide, upon Charging Party's request, information consisting of the current compensation, including salaries, wages and fringe benefits, paid to specified individuals employed by Council 2, as well as a list of all Council 2 employees and their job titles, in derogation of the International Constitution's guarantee of members' rights ("Charge 1"); (2) the Accused Parties' refusal to provide "administrative information" regarding Council 2's processing of grievances arising under collective bargaining agreements ("Charge 2"); and (3) failure to obtain ratification by the Council 2 executive board of the employment of Council 2's General Counsel ("Charge 3"). Brother Maycock brought his charges pursuant to Article X, Sec. 2 of the International Constitution. Only Charge 1 involves an interpretation and application of the International Constitution and is the subject of this decision.

Following referral to Judicial Panel member Theodora McKenna and her convening of a trial on the charges, Sister McKenna issued a decision on January 4, 2019, finding the Accused Parties not guilty in all respects. The Charging Party appealed Sister

McKenna's decision to the full Judicial Panel, which considered the appeal on March 26, 2019, and issued its decision confirming the trial officer's decision on April 2, 2019. The Charging Party then filed an appeal of the Judicial Panel decision to the International Convention, properly addressed to Secretary-Treasurer McBride by email dated April 15, 2019. By letter dated May 10, 2019, President Saunders directed the Judicial Panel to treat Brother Maycock's appeal to the convention as a request for reconsideration, expressing concern that the decision does not properly comport with prior interpretations of the International Constitution with respect to the right of members to inspect certain financial information. President Saunders further requested the Judicial Panel to convene on an expedited basis by teleconference.

On June 3, 2019, the Judicial Panel convened to reconsider its April 2, 2019 decision only insofar as it addressed the right of members to inspect certain financial information. The parties, having been informed in advance of the opportunity to address the Panel, each elected to appear remotely by teleconference and to address the Panel through their respective counsel. Upon further deliberation and consideration of the record, previous constitutional interpretations, and the arguments of the parties, the Judicial Panel withdraws its April 2, 2019 decision, and makes the following findings and decision.

DECISION OF THE FULL JUDICIAL PANEL

Charge 1, brought pursuant to Article X, Section 2(A) for a violation of the International Constitution, asserts the Accused Parties violated Section 6 of the Bill of

Rights for Union Members of the International Constitution, which provides the following guarantee:

Members shall have the right to a full and clear accounting of all union funds at all levels. Such accounting shall include, but not be limited to, periodic reports to the membership by the appropriate fiscal officers and periodic audits by officers elected for that purpose or by independent auditors not otherwise connected with the union.

The purpose and intent of this provision is clear: to ensure transparency and accountability to the membership as to the use and expenditure of their funds, made on their behalf, across all levels of the union. The right to obtain such information is also necessary for the informed exercise of other rights guaranteed to members, for example, Bill of Rights Sec. 7, which guarantees members the right to "full participation, through discussion and vote, in the decision making processes of the union, and to pertinent information needed for the exercise of this right." Guided by these principles, we have previously sustained charges and issued discipline when an officer has refused to disclose individual employee salaries upon request by a member. Such was our decision in Judicial Panel Case No. 14-118, Monroe v. Hughes, et al., in which the Judicial Panel affirmed the trial officer's decision to sustain a charge over the accused party's refusal to accede to an executive board member's reasonable request for the production of wage and benefit information broken down by employee. We directed such information be made available, "provided that appropriate precautions are taken to protect confidential information."

As in Judicial Panel Case No. 14-118, Brother Maycock's request for financial disclosure was similarly reasonable. With respect to specified employees of Council 2, Brother Maycock requested information regarding their 2017 year-end gross wages, medical, retirement, and other fringe benefits and allowances paid to them by Council 2. Certainly, Council 2 has this information and can produce it. Brother Maycock also requested but was not provided a list of Council 2's employees and their job titles. Although not directly involving the expenditure of union funds, understanding who is employed by the union and in what capacity is a predicate to understanding the appropriateness of the expenditure of union funds, and the union's finances generally, and therefore, was information Brother Maycock was reasonably entitled to receive under the Bill of Rights, Sections 6 and 7.

Moreover, it is appropriate to qualify the provision of financial information with an assurance that the requesting member will maintain the confidential and proprietary nature of the information. Therefore, as we have recognized previously, (for example, in Judicial Panel Case Nos. 13-100, Shanahan v. Carey & Solis, and 14-118 Monroe v. Hughes, et al.) considerations of privacy and confidentiality justify the adoption of reasonable conditions to ensure such information is protected from general disclosure. However, as we have previously noted, (for example in Judicial Panel Case No. 17-99, Scandalios v. Rodriguez & Johnson) the conditions imposed on the provision of financial information may not be unreasonable.

The Trial Officer's decision with respect to Charge 2 and Charge 3 is not before us for reconsideration and is affirmed in all respects.

For the foregoing reasons, upon reconsideration of the Trial Officer's decision on Charge 1, the previous Judicial Panel decision issued on April 2, 2019, is superseded to the extent it is inconsistent with this decision. The Judicial Panel sustains Charge 1 and finds Brother Dugovich guilty of violating the Bill of Rights, Section 6, and issues the penalty of a reprimand. He is directed not to repeat the violation in the future.

The record contains no evidence that Brother Stemler was authorized, or responsible for, responding to Brother Maycock's request for information. Accordingly, we affirm the Trial Officer's decision finding Brother Stemler not guilty.

Going forward, it is expected that Council 2 will comply with this decision and make arrangements to permit Brother Maycock, and any other requesting member, to view the requested information under reasonable conditions intended to preserve the confidentiality of such information.

DATED: June 3, 2019

BY THE FULL JUDICIAL PANEL

Panel members voting aye: **Richard Abelson, Dayton Nakanelua, Steve Tully, Keith January, Gerard Jolly, Michael DeMarco, Serena Vergin**

Panel members voting no:

Panel members not participating: **Theodorah McKenna, Timm Twardoski**

Panel members absent: **Andrew Washington**



Lee Saunders
President

Elissa McBride
Secretary-Treasurer

Vice Presidents

Jody Barr
New Britain, CT

SeAdorela K. Brown
Miami Springs, FL

Richard L. Caponi
Pittsburgh, PA

Stacy Chamberlain
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Olympia, WA

Daniel DiClemente
North Chili, NY

Danny Donohue
Albany, NY

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New York, NY

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San Diego, CA

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Commack, NY

John A. Lyall
Worthington, OH

Kathryn Lybarger
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Roberta Lynch
Chicago, IL

Christopher Mabe
Westerville, OH

Glenard S. Middleton Sr.
Baltimore, MD

Douglas Moore Jr.
San Diego, CA

Frank Moroney
Boston, MA

Michael Newman
Chicago, IL

Henry Nicholas
Philadelphia, PA

Debbie Parks
Hamilton, NJ

Randy Perreira
Honolulu, HI

Steven Quick Sr.
Indianapolis, IN

Lawrence A. Roehrig
Lansing, MI

Joseph P. Rugola
Columbus, OH

Alan F. Shanahan
Los Angeles, CA

Paul Spink
Milwaukee, WI

Mary E. Sullivan
Albany, NY

Braulio Torres
San Juan, PR

Anthony Wells
New York, NY

John P. Westmoreland
South St. Paul, MN

May 10, 2019

Richard Abelson, Judicial Panel Chairperson
AFSCME, AFL-CIO
1625 L Street, N.W.
Washington, DC 20036

RE: JP Case No. 18-80-A
Maycock v. Dugovich, et al.

Dear Brother Abelson:

It has come to my attention that the above-referenced matter has been appealed to the International Union's 2020 Convention. I am concerned that the decision of the Judicial Panel as it relates to the right of members to inspect certain financial information does not comport with my interpretation of the International Constitution or with earlier Judicial Panel precedent. I am therefore requesting that you treat the appeal to the Convention as a request for reconsideration of the Full Panel's decision regarding this issue.

I am further requesting that you convene the Full Panel on an expedited basis by teleconference to reconsider the matter and that written reasons be provided for either upholding or overturning the Hearing Officer's decision.

In solidarity,

LEE SAUNDERS
President

LS/WL:lb

cc: Judith Rivlin, General Counsel
Mike Sukal, Director, OFS
Walter Blair, Western Regional Director
Chris Dugovich, President/Executive Director, AFSCME Council 2
Colin Maycock, President, AFSCME Local 1849

American Federation of State, County and Municipal Employees, AFL-CIO

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