

## Trial Committee Guidelines

1. Charges against a member must be filed in writing with the President or Secretary-Treasurer, who shall read same at the next regular meeting of the Local.
2. A Trial Committee shall be elected at the membership meeting. Traditionally, members of the Trial Committee are either volunteers or nominees. If an insufficient number of members volunteer, nominees are necessary. If too many volunteers/nominees, the election of those to serve on the Trial Committee can be conducted by show of hands at the meeting. SUGGESTION: Motion should be made for number of people to serve on the Trial Committee. Twelve (12) people with three (3) alternates is the recommendation. The meeting Chair should ask all nominees/volunteers whether they can serve on the Trial Committee without bias.
3. The meeting Chair or Secretary-Treasurer shall set a date and time for the first meeting of the Trial Committee. This meeting can also be set by motion.
4. At the first meeting, the Trial Committee must elect a Chair, an Attorney of Facts, and a Secretary.
5. The Attorney of Facts is tasked with investigating the charge against the accused member. The Attorney of Facts must bring a recommendation to the Trial Committee as to whether there is sufficient evidence to hold a trial on the charge.
6. If the Attorney of Facts determines that there is sufficient evidence for a trial, and the charge against the accused member, as written, is not entirely clear as to the allegations, the Attorney of Facts should rewrite the charge to give the member specific notice of the allegations including times, places, names, and all the relevant sections of the Constitution allegedly violated.
7. The Trial Committee must also adopt Trial Procedures and send a copy of the Trial Procedures to the accused member. SUGGESTION: It would be wise to simply adopt the Trial Procedures adopted by the Trial Committee in 1965. A copy will be provided to the Trial Committee.
8. A cite letter with a copy of the full and complete allegations against the accused member should be sent by certified mail. A copy of the Trial Procedures adopted by the Trial Committee must be included with the cite letter. The member should be permitted at least thirty (30) days from the date of the cite letter to prepare his defense.
9. If the Attorney of Facts determines that there is insufficient evidence for a trial, and the Trial Committee adopts the Attorney of Facts' recommendation, the Trial Committee must present its position to the membership.

10. During the trial, all Trial Procedures adopted must be followed. The three (3) alternate Committee members should be available in case the accused member challenges any Committee member for bias. NOTE: Pursuant to the Labor Management Reporting and Disclosure Act of 1959 ("LMRDA"), if the Trial Committee is found to be bias, the Trial Committee's findings can be thrown out by the Court.
11. During the trial, the accused member must be afforded the right to offer testimony and to examine and cross-examine witnesses. NOTE: Pursuant to the LMRDA, the Trial Committee is not required to provide a written transcript of the trial but if the Trial Committee does not and the accused member is willing to pay for such a transcript or audio recording, the member has a legal right to do so. However, where the Trial Committee is willing to record and provide a transcript to the accused member, the accused member does not have a right to make additional recordings.
12. At the conclusion of the Trial, the Trial Committee shall present its findings to the Local with a recommendation for the punishment for the offense. SUGGESTION: The Trial Committee should prepare a report similar to the report prepared by the Trial Committee in the Joe La Canfora and Marijon Ancich matter.
13. If the Trial Committee makes a guilty finding and the membership adopts the Trial Committee's finding and recommended penalty, the accused member may appeal the membership's decision to the International President pursuant to Article IX of the Constitution of the International Longshore and Warehouse Union.

### TRIAL PROCEDURE

( As adopted by Trial Committee - December 7, 1965. )

After the defendants are brought in and identified by the Attorney in Fact, they shall then be seated. The Attorney in Fact shall read the charge or charges and request a plea of guilty or not guilty. If a plea of not guilty is entered, then the Attorney in Fact will call his first witness.

The Attorney in Fact will ask the questions he considers necessary to the prosecution of the case and then turn the witness over to the defense. When the defense attorney is finished with the witness, the committee members will have the privilege of questioning the witness. Chairman shall rotate around the table and each member may ask as many questions as he likes. After the Attorney in Fact has finished with his witnesses, the defense will be asked to call his witness. The defense will question each witness in turn and then turn the witness over to the Attorney in Fact. When the Attorney in Fact has completed his questions, the board members will then question the witness by the same procedure as outlined before.

As each witness is excused, he will be instructed to remain for further clarification as to any statement he shall have made. He may remain inside the hearing room if he wishes but he may not be recalled by anyone for further questioning until all witnesses for both sides have completed their testimony. After this, the board members may question the defendant.

After each side has presented their evidence and produced their witnesses, the Attorney in Fact and then the attorney for the defense will sum up the evidence and make their plea. Chairman to ask that they both agree to a stipulated amount of time in order that we may proceed to the next order of business. After this, the defendant, his attorney, the Attorney in Fact and all witnesses pertaining to the case will be asked to leave the room.

There shall be only one question on the floor at one time. Whoever has asked a question shall be allowed the courtesy of receiving an answer. The Attorney in Fact nor the Defense Attorney shall not be interrupted. Each committee member may make a note of any questions he may wish to ask a witness or a defendant and each member in turn will be allowed to ask his questions and receive answer.

No one, not a committee member, will be allowed to participate in the trial by asking questions of the defendant and plaintiff or offering instructions to trial committee. The chair reserves the right, however, to ask for a point of law or a clarification of any rule of order in procedure from any official of the union who may be present.

The tolerance and aid of the committee is requested in seeing that cases are tried in an orderly and respectful manner and that defendant has an equal chance to present his case and feel that he has been fairly tried, regardless of the outcome of his case.

The committee will then consider the case in a free and orderly manner until a motion is made and seconded and then a discussion will be limited to arguments either in favor of or against the motion until the question is called for. The Secretary will then read the motion and a vote may be taken either by hand or by roll call or by secret ballot. The parties to the case will then be recalled and the chairman shall state the decision of the committee and any defendant found guilty shall be notified that he has the right of appeal to the membership.

SUMMARY AND CONCLUSION  
OF JOE LA CANFORA AND MARIJON ANICICH  
TRIAL COMMITTEE

A Trial Committee was established at the June Membership Meeting as provided for by Local 13 Constitution, Article 13.

The Trial Committee met initially to select its Chairman, Secretary, Attorney of Fact and Sargent of Arms.

Subsequent meetings were held for the purpose of clarifying the charges against Joe La Canfora and Marijon Anicich.

The Committee decided that it would dismiss the alleged contractual violations of the complaint without prejudice, for it had no jurisdiction over the contractual matters, but would proceed with the charges against Joe La Canfora and Marijon Anicich of "Conduct unbecoming of a union member".

The Committee felt that the alleged contractual violations are within the jurisdiction of duly elected Officers as provided for under Local 13's Constitution and the Committee would be overstepping its authority and those charges should be processed through the Contractual Grievance Procedure.

The Attorney of Fact reported on his preliminary investigation and stated that there is evidence to warrant a trial.

The Attorney of Fact then filed the following charges:

The Attorney of Fact charges Joe La Canfora #34191 with violations of Oath of Membership and Local 13 Constitution and its Preamble.

As per the Oath of Membership:

I, (name), do solemnly, on my honor, promise that during connection with the INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION, I will remain a true and faithful member. I will observe its laws and rules as far as lies within my power. I will not reveal the proceedings of the meeting unless by permission. That I will strive to create a brotherly feeling between the members and with all organizations that uphold the powers of labor. To this I do pledge my honor.

Preamble: (First Paragraph)

Ever since the beginning of society, individuals have organized into associations of one kind or another for mutual protection and benefit. In forming these associations, certain rules were formulated, whereby each individual agreed that he would not perform any act which would prove detrimental to the others, in order that the collective welfare of all might be maintained and protected.

As per the Constitution By-Laws, General Rules; International Longshoremen's and Warehousemen's Union, Local 13, Article XIII, Fines and Penalties, Section 1., 3., "Charges against members must be limited to offenses against the Local or unionism in general."

You have been charged with offenses against the Local and unionism in general.

The specific charges are as follows:

Joe La Canfora #34191 in collusion with Marijon T. Anicich #30486, deliberately violated a trust to their fellow union brothers.

- a. Knowingly worked with an outsider deliberately violating Local 13's policies and principles.
- b. Denying a work opportunity (a night's wages and benefits) to fellow members of Local 13.
- c. Deliberately placing Marijon T. Anicich on the payroll fraudulently.
- d. By such practices, placed Local 13's integrity within the Labor Movement and community in jeopardy.

The specific charges against Marijon Anicich were:

- a. Violating his oath of membership;
- b. Violating the Preamble of Local 13; and
- c. Deliberately violating a trust to your fellow Union brothers by being a willing conspirator to charges lodged against Joe La Canfora #34191.

At a subsequent meeting witnesses were called by the Attorney of Fact to give testimony regarding his charges against Joe La Canfora and Marijon Anicich.

No witnesses were called by the defense (Joe La Canfora and Marijon Anicich), to testify on their behalf.

All witnesses were subject to questions from the Attorney of Fact, the defendants, and the Trial Committee members.

EXHIBIT "B"

### CONCLUSION

After hearing testimony of the witnesses, the Committee had the task of reaching a decision.

Joe La Canfora and Marijon Anich both pleaded not guilty to the charges. During the proceedings it became clear that, in fact, an outsider was working on the jobsite with Joe La Canfora as his partner and that Marijon Anich, his regular partner, remained on the payroll until it came to the attention of the Night Business Agent, who instructed the Ship Boss to have the outsider removed from the jobsite, and that Marijon Anich be replaced through the Dispatch Hall.

After all testimony by the witnesses, Attorney of Fact, Joe La Canfora and Marijon Anich, and cross-examinations by Committee members, that phase of the trial ended.

A meeting was then scheduled for the purpose of allowing the Attorney of Fact, Joe La Canfora and Marijon Anich to present final arguments on their own behalf.

The Committee heard the final arguments and dismissed the parties involved and went into Executive Session to reach a verdict.

The Committee spent a large amount of time discussing testimony of all parties involved and took into consideration the integrity, background and character of all parties involved and also the quality and sincerity of the testimony given.

The Committee found Joe La Canfora guilty on the following charges:

- 1) Violating his oath of membership;
- 2) Violating the Preamble of Local 13's Constitution; and
- 3) Deliberately violating a trust to his fellow Union brothers by:
  - a) Knowingly working with an outsider, violating Local 13's policies and principles;
  - b) Denying a work opportunity to fellow members of Local 13;
  - c) Deliberately placing Marijon T. Anich on the payroll fraudulently; and
  - d) By such practices, placed Local 13's integrity within the Labor Movement and the community, in jeopardy.

After finding Joe La Canfora guilty, the Committee then had to review a prior conviction of Joe La Canfora to see if the guilty verdict was in conflict with it.

The Committee found Joe La Canfora guilty of violating the condition of his Summary Probation of his prior conviction (Part 2) which was: "That Joe La Canfora #34191, be expelled from the ILMU, Local 13 for a period of 99 years; said sentence to be suspended and he be placed on summary probation for a period of 25 years; upon the following terms and conditions: 1) That he pay a fine of \$500.00; and 2) THAT AT NO TIME HE VIOLATE ANY POLICIES OR PRINCIPLES OF THE INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION." (Passed at Regular Meeting of Feb. 7, 1974)

The Committee's recommendation to the Membership is:

"JOE LA CANFORA BE EXPELLED FROM LOCAL 13 FOR A PERIOD OF 99-YEARS, FOR VIOLATING THE SUMMARY PROBATION AND CURRENT CHARGES AGAINST HIM."

The Committee found Marijon Anich guilty on the following charges:

- 1) Violating his oath of membership;
- 2) Violating the Preamble of Local 13; and
- 3) Deliberately violating a trust to his fellow Union brothers by being a willing conspirator to charges lodged against Joe La Canfora #34191.

The Committee's recommendation to the Membership is:

"MARIJON ANICH #30486 BE EXPELLED FROM ILMU, LOCAL 13 FOR A PERIOD OF 99-YEARS; SAID SENTENCE TO BE SUSPENDED AND HE BE PLACED ON SUMMARY PROBATION FOR A PERIOD OF 25-YEARS, UPON THE FOLLOWING TERMS AND CONDITIONS:

- 1) THAT HE PAY A FINE OF \$1,500.00 TO BE PAID IN FULL WITHIN 60-DAYS; AND
- 2) THAT AT NO TIME HE VIOLATE ANY POLICIES OR PRINCIPLES OF THE INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION."

The Committee then addressed itself to the contractual issues of the complaint and makes the following recommendation to the Membership:

"THAT LOCAL 13'S OFFICERS PURSUE THE ALLEGED CONTRACTUAL VIOLATIONS THROUGH THE CONTRACTUAL GRIEVANCE PROCEDURE."

After concluding that phase of the Trial Committee, Joe La Canfora and Marijon Anich were notified by certified mail as to the Committee's Decision and Recommendations and their right to appeal at the next Regular Membership Meeting.

All decisions and recommendations were passed overwhelmingly by the Committee members and no minority report will be given.

The Membership of Local 13 should keep in mind that the concept and principles of ILMU Unionism is that no brother or sister do anything that would deny others their fair share of work opportunities and the Trial Committee arrived at its decision on these basic and fundamental concepts and principles.

The Committee wishes to thank the Membership for its patience with the Trial Committee and after membership action on their recommendations. This will conclude the work and purpose of the Trial Committee.