

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 19**

INTERNATIONAL LONGSHORE AND  
WAREHOUSE UNION, LOCAL 23  
(PACIFIC RAIL SERVICES, LLC)

and

JIM TESSIER, AN INDIVIDUAL

Cases 19-CB-107522  
19-CB-110796  
19-CB-116478

**ORDER CONSOLIDATING CASES, CONSOLIDATED  
COMPLAINT AND NOTICE OF HEARING**

Pursuant to § 102.33 of the Rules and Regulations of the National Labor Relations Board (the "Board"), and to avoid unnecessary costs or delay, IT IS ORDERED THAT Cases 19-CB-107522, 19-CB-110796, and 19-CB-116478, which are based on charges filed by Jim Tessier ("Tessier"), an Individual, against International Longshore and Warehouse Union, Local 23 ("Respondent").

This Order Consolidating Cases, Consolidated Complaint and Notice of Hearing, which is based on these charges, is issued pursuant to § 10(b) of the National Labor Relations Act (the "Act"), 29 U.S.C. § 151 *et seq.*, and § 102.15 of the Rules and Regulations of the Board, and alleges that Respondent has violated the Act as described below.

1.

(a) The Charge in Case 19-CB-107522 was filed by Tessier on June 18, 2013, and a copy was served on Respondent by regular mail on June 19, 2013.

(b) The Amended Charge in Case 19-CB-107522 was filed by Tessier on November 12, 2013, and a copy was served on Respondent by regular mail on November 13, 2013.

(c) The Charge in Case 19-CB-110796 was filed by Tessier on August 7, 2013, and a copy was served on Respondent by regular mail on August 8, 2013.

(d) The Amended Charge in Case 19-CB-110796 was filed by Tessier on November 12, 2013, and a copy was served on Respondent by regular mail on November 13, 2013.

(e) The Charge in Case 19-CB-116478 was filed by Tessier on November 5, 2013, and copy was served on Respondent by regular mail on November 6, 2013.

## 2.

(a) At all material times, Pacific Maritime Association ("PMA") has been a multi-employer association representing shipping companies and terminal operators in shipping ports on the West Coast, including the Port of Tacoma, Washington.

(b) In conducting its operations during the calendar year ending December 31, 2013, PMA derived gross revenues in excess of \$1,000,000.

(c) During the period of time described above in paragraph 2(b), PMA purchased and received goods valued in excess of \$50,000 directly from points outside the State of Washington.

(d) At all material times, Pacific Rail Services, LLC ("Pacific Rail"), has been a State of Delaware corporation engaged in providing intermodal services for

various railroads at locations throughout the United States, including Tacoma, Washington.

(e) In conducting its operations during the calendar year ending December 31, 2013, Pacific Rail has performed services valued in excess of \$50,000 in states other than the State of Washington.

(f) At all material times, PMA and Pacific Rail have been engaged in commerce within the meaning of §§ 2(2), (6), and (7) of the Act.

3.

At all material times, Respondent has been a labor organization within the meaning of § 2(5) of the Act.

4.

At all material times, the following individuals held the positions set forth opposite their respective names and have been agents of Respondent within the meaning of § 2(13) of the Act:

Scott Mason	—	President
Mike Ostrander	--	Business Representative
Bill _____	--	Dispatcher
Eddie Flores	--	Executive Board Member

5.

(a) Since July 1, 2008, PMA and Respondent, through the International Longshore and Warehouse Union ("ILWU"), have maintained an agreement requiring that Respondent be the exclusive source of employee referrals for employment with PMA members.

(b) Since August 1, 2006, Pacific Rail and Respondent have maintained an agreement requiring that Respondent be the exclusive source of employee referrals for employment with Pacific Rail.

6.

(a) On or about May 9, 2013, Respondent implemented a rule refusing to refer for work any suspended members of any ILWU local.

(b) From June 15 until June 18, 2013, Respondent failed and refused to refer its member Eric Aldape ("Aldape") for employment with Pacific Rail.

(c) Respondent engaged in the conduct described above in paragraphs 6(a) and (b) because Aldape engaged in protected, concerted activities and for reasons other than the failure to tender the periodic dues and the initiation fees uniformly required for membership in Respondent.

7.

About May 9, 2013, Respondent implemented and since then has maintained a rule stating it would fine any member who posts information on the internet regarding its business, accidents, or sensitive issues.

8.

By the conduct described above in paragraphs 6 and 7, Respondent has been restraining and coercing employees in the exercise of the rights guaranteed in § 7 of the Act in violation of § 8(b)(1)(A) of the Act

9.

The unfair labor practices of Respondent described above affect commerce within the meaning of §§ 2(6) and (7) of the Act.

**WHEREFORE**, the General Counsel seeks an order from the Board requiring, as part of the remedy for the unfair labor practices alleged above in paragraph 6, that Respondent reimburse Aldape an amount equal to the difference in taxes owed upon receipt of a lump-sum payment and taxes that would have been owed had there been no unlawful conduct; and requiring that Respondent submit the appropriate documentation to the Social Security Administration so that when backpay is paid, it will be allocated to the appropriate periods. The General Counsel further seeks all other relief as may be just and proper to remedy the unfair labor practices alleged

#### **ANSWER REQUIREMENT**

Respondent is notified that, pursuant to §§ 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the consolidated complaint. The answer must be **received by this office on or before January 5, 2015, or postmarked on or before January 4, 2015.** Respondent should file an original and four copies of the answer with this office and serve a copy of the answer on each of the other parties.

An answer may also be filed electronically through the Agency's website. To file electronically, go to [www.nlrb.gov](http://www.nlrb.gov), click on **File Case Documents**, enter the NLRB Case Number, and follow the detailed instructions. The responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the

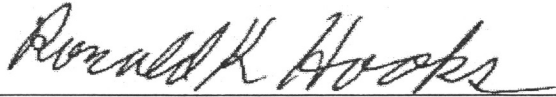
transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See § 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf. document containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the consolidated complaint are true.

#### **NOTICE OF HEARING**

**PLEASE TAKE NOTICE** that on the **9<sup>th</sup> day of June, 2015, at 9:00 a.m.**, in the James C. Sand Hearing Room of the Jackson Federal Building located at 915 Second Avenue, Seattle, Washington, and on consecutive days thereafter until concluded, a hearing will be conducted before an Administrative Law Judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this consolidated complaint. The procedures to be followed at the hearing are

described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

**DATED** at Seattle, Washington, this 22<sup>nd</sup> day of December, 2014.

A handwritten signature in black ink, reading "Ronald K. Hooks". The signature is written in a cursive style with a horizontal line underneath it.

Ronald K. Hooks, Regional Director  
National Labor Relations Board, Region 19  
2948 Jackson Federal Building  
915 Second Avenue  
Seattle, Washington 98174-1078