

To: Trial Committee Members

From: Lawrence Toledo, *Attorney of Facts*

Re: Conduct Unbecoming Against Bobby Olvera, Jr., #08751

Date: April 10, 2015

Report:

I, Lawrence Toledo, #37920, Attorney of Facts in the matter concerning allegations against Brother Bobby Olvera, Jr., #08751 for "Claim of Conduct Unbecoming" filed by Brother Angelo Andrikos, #130044, I find the allegation to be unwarranted for lack of evidence and therefore recommend the allegations go no further.

Included with this recommendation are my investigation notes and evidence that was used to formulate my decision.

The major deciding factor in my decision were my telephone interviews with business agent Andy Kustich, who on May 28, 2014 had been the one acting on his own accord to put both Jerry Vrbanovic, #132745 and Angelo Andrikos, #130044 on the payroll for a "Time in Lieu" violation. Bobby Olvera, Jr., did not use his position as Local 13 President to bypass the Dispatch Hall in getting these two workers on the payroll, as was alleged in Angelo Andrikos' complaint.

The Complainant refers to the LMRDA Sections 302 (a) (b) (1) and 501 (a) (b). In the context of the LMRDA Sections they do not apply to this Complaint. The context of the law is to prohibit highly elected officials from accepting bribes such as untaxable income or gifts from the Employer. Both workers were not checked in to receive work on May 28, 2014. The Dispatch Hall was bypassed as was also stated by the Complainant. Which in turn denied the available Longshoremen a work opportunity for that day. The proper thing to do is for both workers to return the pay for this day and those jobs be dispatched in the proper order to the next two longshoremen at the dispatch hall. These allegations were filed maliciously by Angelo Andrikos in retaliation for a complaint that was filed by Bobby Olvera, Jr., in which Angelo Andrikos was found guilty.

At a critical time period in our Union's history, and Local 13's battles against the Employer, now is not the time for unnecessary, frivolous complaints against the President of Local 13, who has strived successfully in uniting the membership in solidarity in our struggles against the Employer.

During the investigatory process as the Attorney of Facts on behalf of Angelo Andrikos the Complainant, I have fairly represented Angelo Andrikos and acting in an honest good faith judgement have made a sufficient investigation to the knowledge of the facts and I have made a good faith decision based on those facts, thus fulfilling the legal duty of a Union representative to fairly represent its member.

Respectfully Submitted
Lawrence Toledo, #37920

Investigative Notes

4/7/15

2 p.m. – Constitution By-laws – PCLCD Sections 8.4, 10.1, 24.2
Dispatch Rules – Time in Lieu (Job is Done)

No longshoreman shall have more than one job opportunity.

Who? What? When? Where? Why? How?

Standards of Proof.

Burdens of Proof, Preponderance of Evidence, Clear and Convincing Evidence, Proof Beyond a Reasonable Doubt

8 Tests of Just Cause

Did Bobby Olvera, Jr., violate the rule? What is the evidence – FACTS – that show Bobby Olvera, Jr., violate the rule. Witnesses, documentary evidence, records, are the witnesses credible – believable? Is it complaint believable? Supported by others?

Why did Andrikos wait so long to file a complaint?

Andrikos #130044

Vrbanovic #132745

5/28/14 - Pasha Lashing - Star Estnd TI207

4/8/15 - 6:15 a.m. - Records Room

Pulled payroll for Evangelos Andrikos and Jerry Vrbanovic for the week of 5/28/14. Checked the Form 3's for PST for 5/28/14 with 2 witnesses, Ray Pearson and Business Agent Mark Jurisic.

No record of Dispatch.

Pulled both workers check-in history.

Pulled job details for both workers.

8:15 a.m. – Pasha 176 – Superintendent/Clerical Office

Along with Business Agent Mark Jurisic I tried to locate the “Superintendent”, whom I have no name for, that Bobby Olvera, Jr., allegedly had put both workers on the payroll for 5/28/14. I was then directed to two female clerical workers who looked into their system. One of the clerical workers mentioned that both workers names were familiar to her because a month ago she was asked to pull their payroll.

While talking with the clerical worker, one of the Superintendents brought into the office the 2nd in command of Pasha, Vice President of Administration, Timothy Tess. Who then invited myself, and my witness, Business Agent Mark Jurisic, into a private office. We then sat at a table and I explained the situation of concern and Timothy Tess related to me that a month ago two men from the Department of Labor had asked the same questions concerning both these workers. He did say their questions were to the effect of “if the company, Pasha was “forced” to put both these workers on the payroll”. Timothy Tess said to me as he stated to the Department of Labor that it was a “Time in Lieu” procedure. No forcefulness. Timothy Tess was very receptive to my questioning, very helpful and appeared to be a credible witness.

9:30 a.m. – Local 13 Business Office

I pulled the records of who was the Business Agent for 5/28/14

9:51 a.m. – Telephone call to Andy Kustich

I questioned Business Agent Andy Kustich for his recollection of a Time in Lieu at Pasha on May 28, 2014. Andy Kustich gave testimony that he put both workers on payroll for Time in Lieu.

5:00 p.m. – Telephone call with John Seixas, Chairman, seeking advice.

5:13 p.m. – Telephone call to Business Agent, Andy Kustich

My conversation with Andy Kustich was for the Time in Lieu violation which the ships’ crew was doing some clean up inside the hatch. A Union brother had called Andy Kustich about the violation which he had personally witnessed because he also was working on the same ship. Andy Kustich’s decision to put both workers Andrikos and Vrbanovic on the payroll that day for the Time in Lieu violation was that both these workers were involved in Union business and Vrbanovic had mentioned he hadn’t worked much and if possible if there were anything that should come up if Andy Kustich could keep them in mind since they were doing Union Business. Andy Kustich is a very credible witness.

4/9/15 – Evaluate Facts and Evidence

9:25 a.m.

Identify the significance of the facts and evidence and their relationship to the argument.
Preparation. Advocacy. Decision.

4/28/15 –
4:30 p.m.

On April 28, 2015, I went back to PASHA and spoke with Timothy Tess and asked him who were the two Department of Labor personnel that had talked to him. He gave me DOL Agent Marcus Valle of the West Covina Branch (626) 858-1722. The other agent he had no information on.

5/14/15
11:41 a.m.

On May 14, 2015, I spoke with Business Agent Andy Kustich and asked if there were any "Time in Lieu's" at PASHA terminals or any other terminals for May 28, 2014 and there were not.

5/15/15
11:50 a.m.

On May 15, 2015, I spoke with Jerry Vrbanovic on his recollection of May 28, 2014. He sated he did a good thing for the Union and was a bodyguard for Bobby Olvera, Jr., and does not know of a ghost payroll he was mentioned receiving in Angelo Andrikos' complaint, nor was he aware that Angelo Andrikos filed a complaint with his name in it. Brother Vrbanovic gave me this information yet kept saying he didn't know what I was talking about and couldn't help me.