

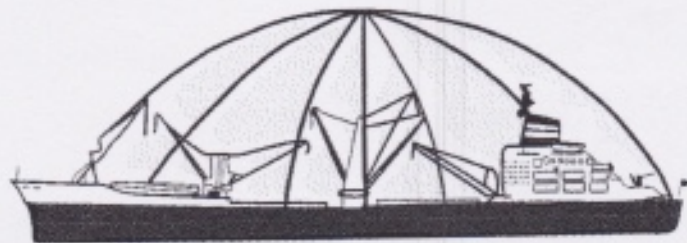
**International
Longshoremen's and
Warehousemen's Union**

LOCAL 23

(253) 383-2468

1306 ALEXANDER AVE. E.

FIFE, WASHINGTON 98424



October 15, 2018

Via email (korj235@lni.wa.gov)
and US Mail

John Korzenko
Compliance Manager
Department of Labor & Industries
950 Broadway, Suite 200
Tacoma, WA 98402-4453

Re: Response to October 1 Allegation Letter

Dear Mr. Korzenko,

I am writing in response to your October 1, 2018 letter about a complaint based on reports you received about conditions at 1306 Alexander Avenue, East. That is where ILWU Local 23's union hall is located. The incident you're inquiring about occurred on September 13. Around 130pm that day is when Business Agent and Local 23 employee, Mike Kennedy got in an altercation with another Local 23 member across the street from our parking lot, near the credit union.

I'm providing you with a summary of what we understand to have taken place. Our investigation is still ongoing, but it appears that Mike Kennedy was injured during an altercation he had with another Local 23 member, Chuck Jones. Chuck is not employed by the Local. We are unaware of any past history of problems between them. Nor are there any past complaints about either.

The incident occurred on September 13, 2018 around 130pm. It got started when Mike, who is employed by Local 23 as a business agent, arrived at the hall. Chuck was outside on the sidewalk talking with someone when Mike walked by and said hello. Chuck informed Mike that he was going to be filing a grievance against him regarding a work assignment dispute from a few days ago. This led to a loud argument between the two in the parking lot. Both were yelling at each other and cursing. Mike returned to his parked truck but called out to Chuck, "follow me". Chuck apparently didn't respond. Mike drove off, but minutes later he returned to the parking lot and yelled out again to Chuck, "follow me." This happened at least twice. The two of them ended up parked across the street from the Longshore Credit Union, which is next door to the hall. They got out of their cars and had more heated words and loud argument.

Witnesses reported seeing them engage in a physical altercation. They were eventually pulled apart by some bystanders.

Mike drove off from the scene as did Chuck. We did not learn until later that Mike incurred injuries. Upon learning of the incident, Mike's colleagues, Local 23 officers Ryan Whitman, Jed Dimaggio, and Dean McGrath, each encouraged him (by phone) to seek medical attention. In fact, DiMaggio offered to take Mike to the hospital or arrange a ride, but it turned out Mike was already on his way there. We later learned that Mike went to the hospital and suffered a head injury.

Nearly all of the workers that Local 23 represents work on the Tacoma Waterfront for a variety of Employers (collectively represented by the employer group PMA.) If any of our members ever suffer an injury we support them in dealing with the specific employer and in dealing with claims under the Longshore Harbor Workers Act (LHWA). In those situations, there is not a workers compensation claim because LHWA incidents are not covered by L&I.

Local 23 has only 7 direct employees. We have never had an incident where a direct employee was injured during the workday requiring hospitalization.

When we learned that Mike had been taken to the hospital to seek medical attention we did not notify L&I. Our administrative staff and officers have since been advised that under state workers' comp law our organization has a duty to notify L&I within eight (8) hours of an incident that leads to in-patient hospitalization.

Your October 1 letter also contains an allegation that Local 23 either lacks, and/or does not enforce violations of its workplace violence policy. That assertion is not correct.

The dispatch hall is operated and administered by the Tacoma Joint Port Labor Relations Committee (JPLRC). This joint committee consists of both employer and union representatives. The union (the International Longshore & Warehouse Union) and the employers (represented by the Pacific Maritime Association) are parties to a contract document governing longshore work known as the Pacific Coast Longshore and Contract Document (PCLCD). Local 23 is the Tacoma based affiliate of the ILWU. Its representatives sit on the Tacoma JPLRC, along with PMA's Tacoma representatives. The two sides have equal power on the joint committee. The JPLRC oversees the rules the union and the employer have negotiated regarding dispatch and conduct in and around the dispatch hall. This includes the power and the duty to impose penalties on longshoremen found guilty of assault.

Section 17.821 of the PCLCD is the section that covers assault. The penalties for those found guilty of assault are:

For first offense assault: Minimum penalty, 1 year suspension from work.
Maximum penalty, discretionary.

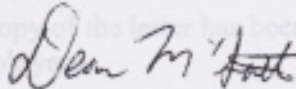
For second offense assault: mandatory cancellation from registered list upon request of either party.

Other infractions of workplace violence not arising to the level of assault are contained in detail in other applicable sections of section 17 or section 13 of the PCLCD.

The incident that involved Mike and Chuck has been the subject of grievances and is being investigated. The matter will be reviewed by the JPLRC, which is expected to make findings and determine the applicable penalties. In the past, longshoremen have been suspended and/or deregistered for violent or disruptive conduct at or around the dispatch hall or workplace.

Based upon Local 23's investigation into the September 13 incident, we found that the alleged Labor and Industries violations did not cause or contribute to the altercation between Mike and Chuck. As noted above, the fact Local 23 did not notify L&I within 8 hours of Mike seeking treatment at the hospital obviously occurred after the incident and was not a cause of the incident. Our staff and officers have since been informed of that requirement. The claim that Local 23 does not have and/or enforce a workplace violence policy is also unfounded. The Local, acting through the JPLRC, vigorously enforces the no violence policy that applies in and around the workplace and the dispatch hall. The consequences of violating the policy are published in the PCLCD and known by those working out of our hall. The September 13 altercation was the unfortunate result of an unforeseeable dispute between two individuals.

Sincerely,



Dean McGrath, President
ILWU Local 23

Signature: Dean McGrath

Title: President