

To: James Hoffa, International General President
From: Joseph E. diGenova, Independent Investigations Officer
Re: Proposed Charges against former Local 683 Secretary Treasurer Todd Mendez
Date: August 28, 2020

I. RECOMMENDATION

Pursuant to Paragraphs 30 and 31 of the Final Agreement and Order, the Independent Investigations Officer (“IIO”) recommends to the IBT General President that charges be filed against former Local 683 Secretary-Treasurer and principal officer Todd Mendez (“Mendez”) for embezzling union funds, violating Federal law, and committing an act of racketeering in violation of 29 U.S.C. § 501(c), the IBT Constitution, Art. XIX, Sec. 7(b)(3) and (11) and Art. XXII, Sec. 4(e), and the permanent injunction in United States v. International Brotherhood of Teamsters; *to wit*: In December 2018, while still in office but after having lost his bid for reelection, Mendez caused the Local to make at least \$110,120 in unauthorized severance payments, vacation payouts and salaries to himself and six other former Local employees without a union purpose and without notice to or consent of the incoming officers.

It is further recommended that Mendez be charged with bringing reproach upon the IBT by breaching his fiduciary duties, failing to meet with the incoming officers, failing to return Union property and records, and destroying Union property and records in violation of 29 U.S.C. § 501(a), IBT Const. Art. XXII, Sec. 2(c),¹ and IBT Const. Art. XIX, Sec. 9(b)(1) and (2); *to wit*:

¹ IBT Const. Art. XXII, Sec. 2(c) required that he or his designee meet with the principal officer-elect during the period between the date of election and the end of the term to review pending grievances, open contract negotiations, and the Local’s financial records. (Ex. 1)

Mendez failed in his Constitutional duty to meet with or designate a willing and qualified representative to meet with the incoming officers during the period between the date of election and the end of the term to review pending grievances, open contract negotiations, and the Local's financial records. Furthermore, Mendez vandalized and destroyed the Local's records and property.

It is further recommended that Mendez be charged with bringing reproach upon the IBT by violating his membership oath, knowingly harming a fellow Teamster, and retaliating and threatening to retaliate against a fellow Teamster for exercising rights under the IBT Constitution in violation of IBT Const. Art. II, Sec. 2(a), Art. XIX, Sec. 7(b)(2) and (11); *to wit*: Mendez engaged pervasive pattern of verbal and physical harassment of Local 683 officers, employees, members, and their families.

II. JURISDICTION

Pursuant to paragraph 32 of the Final Agreement and Order, the IIO designates this as a matter within the jurisdiction of the General President. (Ex. 2) Paragraph 32 of the Order requires that within 90 days of the IIO's referral to him, the General President must file with the Independent Review Officer ("IRO") written findings setting forth the specific action taken and the reason for such action. (Ex. 2 at 17) Failure to meet this legal obligation may be found to be an act taken to hinder the work of the IRO in violation of the permanent injunction. (Ex. 2 at 3 ¶ (2)(D))

Mendez took a withdrawal card from membership on April 26, 2019. (Ex. 3) Article XIX, Section 1 (g) of the IBT Constitution provides that a former member may be held responsible for his actions while a member. (Ex. 1)

III. INVESTIGATIVE FINDINGS

A. LOCAL 683

Local 683 is located in El Cajon, California. Until July 2015, it was in San Diego. Local 683 represents approximately 2,876 members in the San Diego area. (Ex. 4) The Local held an election for officers in December 2018. (Exs. 4, 24)

B. FORMER SECRETARY TREASURER TODD MENDEZ

Mendez was the Local's Secretary-Treasurer and principal officer from January 1, 2010 to December 31, 2018. (Ex. 5) On December 21, 2018, Mendez lost his bid for re-election as principal officer for the term beginning January 1, 2019. (Ex. 4) Mendez was a member of the Teamsters from September 6, 1999, when he was hired by a Local 683 employer, until his withdrawal on April 26, 2019. (Ex. 3)

On March 6, 2019, the IIO filed a Proposed Charge Report against Mendez for bringing reproach upon the IBT in violation of Article II, Section 2 (a) and Article XIX, Sections 7(b)(1) and (2) and Section (14)(a) of the IBT Constitution, through failing to reasonably cooperate with the IIO by intentionally testifying falsely during his IIO sworn examination on February 2, 2017. (Ex. 6) On March 12, 2019, General President Hoffa adopted and filed the charges against Mendez. (Ex. 7) The IIO's Report alleged that Mendez testified falsely during his IIO sworn examination concerning a document he distributed and caused Board members to sign, purportedly subjecting them to financial penalty for disclosing the terms of a settlement agreement for a lawsuit brought by a former employee against the Local and Mendez personally alleging sexual harassment and other causes of action. (Ex. 6) A proposed settlement of those charges is pending before the IRO.

Far from being a single, isolated incident, Mendez' unsuccessful attempt to sway the election in his favor by hiding the lawsuit settlement from the membership is part of a pattern of

misbehavior and abuse that continued to negatively impact the Local, the new administration, and the membership both during the transition and after Mendez left office.

C. MENDEZ' EMBEZZLEMENT THROUGH UNAUTHORIZED SEVERANCE, VACATION, AND ANNIVERSARY BONUS PAYMENTS

In 2018, Mendez ran for reelection and lost. (Ex. 24) After Mendez learned that he had lost his bid for re-election, in his last weeks in office Mendez caused the Local to disperse to himself and six other local employees a total of at least \$110,120 in unauthorized payments. (Ex. 8 at 7)² The incoming board and the members did not approve these extraordinary expenditures as required under Article XXII, section 4(e) of the IBT Constitution and Art. XVI, Sec. 20 of the Local's Bylaws. (Exs. 1, 9) These payments were also a violation of Mendez' oath of office, as stated in the IBT Constitution. The severance payments paid after the election with no authority served no union purpose. The severance Mendez paid himself and the other six employees was an extraordinary expenditure under the IBT Constitution. The Bylaws imposed the same restrictions. (Ex. 9)

Mendez was notified of his loss on December 20, 2018. (Ex. 11) In letters dated December 21, 2018, and December 27, 2018, the Secretary Treasurer-elect Lee Fletcher ("Fletcher") reminded Mendez of his Bylaw obligation not to award himself and others new benefits through extraordinary expenditures. (Exs. 8, 24)

After December 20, 2018, without the required authority, Mendez caused the Local to make purported "severance payments" to himself, Business Agent Coordinator Frank Sevilla and Local President Steve Lyons; to Business Agents Wayne Lovett, William Doyle, and Eduardo Gonzalez; and to Office Manager Patricia "Patti" Henry ("Henry"). (Ex. 10) He also caused the

² The current Secretary-Treasurer, Lee Fletcher, believes the total of the unauthorized payments to be even greater, as reflected in his Affidavit (Ex. 8). In the instant Report, the IIO has limited the charged conduct to the specific categories of unauthorized payments described *infra* at 5.

Local to make an unauthorized anniversary bonus payment to himself, as well as overpayments of cashed out vacation to himself and others. Some were prescheduled bank deposits dated January 1, 2019. In other cases, Mendez signed the Local checks that reflected the payments.

(Ex. 17). In particular, Mendez caused the following overpayments to himself and others:

MENDEZ			
Pay Date	Pay period	Type	Amount
1/1/2019	12/29/18 - 1/4/19	Vacation	\$7,950.00
1/1/2019	12/29/18 - 1/4/19	Severance	\$26,500.00
1/1/2019	12/29/18 - 1/4/19	Anniversary Bonus	\$10,600.00
LOVETT			
Pay Date	Pay period	Type	Amount
1/1/2019	12/29/18 - 1/4/19	Vacation	\$19,125.00
1/1/2019	12/29/19 - 1/4/19	Severance	\$18,000.00
DOYLE			
Pay Date	Pay period	Type	Amount
12/26/2018	12/29/18 - 1/4/19	Vacation	\$12,240.00
LYONS			
Pay Date	Pay period	Type	Amount
1/1/2019	12/29/18 - 1/4/19	Vacation	\$8,820.00
P. HENRY			
Pay Date	Pay period	Type	Amount
12/26/2018	12/29/18 - 1/4/19	Vacation	\$4,585.00
E. GONZALEZ			
Pay Date	Pay period	Type	Amount
1/3/2019	12/29/18 - 1/4/19	Salary	\$1,000.00
SEVILLA			
Pay Date	Pay period	Type	Amount
1/3/2019	12/29/18 - 1/4/19	Salary	\$1,300.00
		TOTAL	\$110,120.00

(Ex. 10 Chart; Exs. 13, 14, 16, 18, 39)

Mendez caused a vacation payment to be made to himself on January 1, 2019, in the amount of \$7,950.00. (Exs. 10, 15) As of January 1, 2019, Mendez lacked the authority to make

that payment, which occurred after December 31, 2018, his last day in office. Mendez also caused the Local to pay to him on January 1, 2019 an anniversary bonus of \$10,600.00, to which he was not entitled. (Ex. 10 at 2; Ex. 15) Because his term expired at midnight on December 31, 2018, he was no longer employed at the Local on what would have been his anniversary date, January 1. Anniversary bonuses are not prorated. (Ex. 12; Ex. 8 at 8; Ex. 23 at 2) Mendez' entitlement to the bonus had not yet accrued at the time he caused it to be paid. Mendez also caused the Local to pay him a \$26,500.00 lump sum payment on January 1, 2019 for "severance." (Ex. 10 Chart; Ex. 15)

The Local's severance policy, which Mendez implemented in 2013, allowed for (at the option of the Local), payment of severance to be made either in a lump sum or in bimonthly payments within 90 (ninety) days from the date of termination or resignation. Prior to the 2013 change, the policy had been that severance was structured over weekly payments.

In order to fund the lump sum payments, Mendez transferred a total of \$183,740.14 from two savings accounts on December 27, 2018. (Ex. 17) Incoming dues remittances received in December 2018 from employers were not posted to TITAN, but were diverted by Henry into the accounts that were soon to be drained of their funds. (Ex.10 at 2; Exs. 16, 17) According to the IBT auditor, although the severance, bonus, and vacations were paid out, Mendez failed to pay the local's bills, including insurance for the automobiles, for the building, and the loan payment on the building. (Ex. 10 at 2) Moreover, the payouts for the severance were dated January 1, 2019, although they had cleared the bank by automatic deposit in December 2018. (Ex. 10 at 2) Since Fletcher did not have access to the bank account until January 4, 2019, Fletcher was unaware that Sevilla, Doyle and Gonzalez were still on the payroll and that their paychecks had

cleared the bank. Neither Sevilla, Doyle or Gonzalez worked the week they were paid.³ (Ex. 8 at n. 8) By his departure from office after causing the diversion and co-mingling of dues remittances from the TITAN system into the Local's bank accounts he was intent upon draining to zero balances, Mendez also breached his fiduciary duties under 29 U.S.C. § 501(a).

The other members of the former staff also received their vacation pay in lump sum payments after they no longer held their positions. For example, on January 1, 2019, Lovett received a lump-sum payment of \$19,125.00 for his accrued vacation pay. (Ex. 10 Chart) However, based upon his vacation records, and the policy accrual rate, Lovett should have had 226.67 hours maximum accrued time or 28.3 days, which would have worked out to a \$7,560 maximum payout. Therefore, Mendez caused the Local to overpay Lovett by \$11,565. (Ex. 10 Chart; Ex. 18) On January 1, 2019, Lovett also received a lump-sum severance payment of \$18,000.00. (Ex. 10 Chart; Ex. 18)

On December 26, 2018, William Doyle cashed out his vacation, in the amount of \$12,240, despite the fact that he had not been terminated at that time.

As noted *supra*, the IBT Constitution, Art. XXII, Sec. 4(e), required that any extraordinary payments during the transition period be approved by the officers-elect. No opportunity was presented to the incoming Board to consider whether these lump-sum payments (versus structured payments over the course of ninety days) were appropriate, as was required by the IBT Constitution, the Local's Bylaws, and his Oath of Office. Neither the incoming Secretary Treasurer, Fletcher, nor the Board-elect was consulted, or even made aware of these lump-sum payments. The incoming Board would not have approved them if they had known of them. (Ex. 8 at 8)

³ In fact, Gonzalez was on disability. (Ex. 37)

The combined payments to Mendez and the former Board drained the Local's bank accounts to zero. (Ex. 10 at 2)

The IBT Auditor made a number of findings of improper actions by Mendez and his staff.

Among them were the following:

In December of 2018 the former bookkeeper deposited Checkoff money from numerous employers that she did not post to TITAN. We had to spend a large amount of time trying to determine what employer checks were deposited, not deposited, and which employers were tied to what payments.

Transfer of funds from savings to general fund checking were processed by the former bookkeeper at the end of December 2018 totaling over \$190,000.00 and bringing these savings accounts to a zero balance. The above mentioned deposits and these transfers were done in order to process the cash outs of vacation, anniversary bonuses and severance payments to the former employees.

It appears that the policies established by the former Secretary-Treasurer, in particular, the Anniversary Bonus and the annual Christmas Bonus were not fiscally responsible. It also does not appear that the Executive Board approved these policies, or any policies, at the beginning of each new term of office.

Outgoing business agents were paid in advance. The checks were dated January 1, 2019 for payroll through January 4, 2019. These checks were processed in QuickBooks on December 27th and cashed on December 31, 2018.

Cash out of vacation and severance were paid to the outgoing officers and business agents in advance and without the knowledge of the incoming administration. These checks were processed on December 27, 2018 but dated January 1, 2019. All cash outs cleared the bank on December 31, 2018. During the last three months of 2018 it does not appear that any of the Officers or Agents took any vacation or sick leave during the campaign period.⁴

It appears that former Secretary-Treasurer Todd Mendez was improperly paid an "Anniversary Bonus" in the gross amount of **\$10,600.00**. He was not employed by the Local on his anniversary date. His anniversary bonus check was dated 1/1/19 (see attached spreadsheet audit). This is historically paid, when applicable per policy, at the end of the first pay period that includes your anniversary date (see attached policy).

Former Business Agent Wayne Lovett appears to have been overpaid on his

⁴ The fact that none of the officers and staff used any of their vacation time in the final three months of 2018 is remarkable, in light of the fact that it was an election season for the Local. Furthermore, ample photographic evidence exists showing the same officers posing for photographs at various employer locations, engaged in what is clearly election activity. (Ex. 21)

vacation cash out, if following Local 683's vacation policy, in the amount of **\$11,565.00**. Even if you allow for the former Secretary-Treasurer to override this policy and bring him in with full vacation, he was still overpaid for vacation cash out by \$3,780.00 (see attached spreadsheet audit).

Considering the financial position of the Local, it should have been an option of the current administration to pay these cash out payments over a 90 day period, as per the Local Union Policies and Bylaws.

Former Secretary-Treasurer Mendez filed for California State Disability and the paperwork was received by the Local in January 2019. The information Mr. Mendez filed with the State of California states his last day of work as 12/27/18.

There was a \$1,000.00 (Gross) paycheck issued to Todd Mendez in August of 2017 that appears inappropriate. He was paid full regular salary for pay period ending August 17th and full regular salary for pay period ending August 24, 2017. On August 18th he was issued a direct deposit salary payment of \$1,000.00 gross pay. The pay period shows in QuickBooks as 8/19/2017 through 8/25/2017 for which he was already paid full salary on 8/24/17. Upon investigating this in QuickBooks (see attached), this \$1,000.00 salary was taxed for Federal Withholding/FICA for \$81.50, State withholding taxes of \$14.00 and \$900.00 was distributed to a personal 401(k) loan as a loan payment. The remaining \$4.50 net was deposited into his personal account. Though during my audit of vacation taken and vacation cashed out for this employee, I charged him two (2) days cash out of vacation to cover this 401(k) loan payment. The check did not reflect "Vacation Salary" as the item used on his check. This check was issued as "Salary" so appeared to be an extra unsubstantiated paycheck.

On December 27, 2018 the former bookkeeper issued three separate physical paychecks to former Secretary-Treasurer Todd Mendez (as opposed to direct deposit), dated January 1, 2019 for cash out of vacation, anniversary bonus and severance. She then voided these checks and reissued the cash outs as direct deposit payments. We have been unable to locate the physical checks that were voided. The current bookkeeper put a stop payment on these three checks (Number 23923 for \$7,252.32, Number 23924 for \$24,197.75 and Number 23925 for \$9,673.10). Also Check Number 23921 issued to Steven Lyons for \$8,047.07 was voided and reissued as a direct deposit but we were unable to find the physical voided check. All four of these amounts have cleared the bank as direct deposits, but due to the fact that we cannot find the physical voided checks, it was necessary to stop payment. These stop payments cost the Local \$140.00.

Check disbursements were processed in QuickBooks for payments to vendors and members that were never printed, but were not in the system as "To Print". The check number field is blank so we did not realize until reconciling general fund checking for December 2018 that these disbursements were not processed properly.

It appears that former Secretary-Treasurer Mendez was improperly paid an ‘Anniversary Bonus’ in the gross amount of \$10,600.00. He was not employed by the Local on his anniversary date.

(Ex. 10 at 2) (all emphases supplied).

The outgoing officers, including Mendez, caused themselves and their business agents to receive over \$110,000 in cashed out vacation, anniversary bonuses, and severance payments. These transactions were made “without the knowledge of the incoming administration” and brought the Local’s savings accounts to a zero balance. (Ex. 10 at 2) At the same time, the outgoing officers did not pay critical bills, including the building loan payment and the insurance payments for the building and the Local’s vehicles. (Ex. 10 at 2)

These payments were all unauthorized. All these checks were negotiated. (Exs. 10, 17) After they lost the election, Mendez and Lyons, the two full-time salaried officers who signed the checks, in the last days of their terms in office transferred at least \$110,120 in Local funds to Mendez and the other Local employees without authorization. These payments were “an extraordinary expenditure” made to Mendez himself, and the six other full-time employees in violation of the IBT Constitution and the Local Bylaws. There was no approval by the Executive Board, the officers-elect, or the membership, all of which the Constitution and Bylaws required. (Exs. 1, 9)

Finally, Mendez also caused the Local, through a dues check-off, to pay the January 2019 union dues for himself and several other members of the former Executive Board, on January 1, 2019, as though each of them were still employed by the Local. (Ex. 19) That was a privilege (approximately \$535) to which they were no longer entitled. Having been voted out of office, the individual members of the former Board were no longer employees of the Local on January 1, 2019, and were thus personally responsible for paying their January 2019 dues.

Besides being unauthorized, there was no union purpose for the unauthorized payments

and dues remittances that Mendez awarded himself and select employees, which increased their compensation as they left office.

D. MENDEZ FAILED TO MEET WITH THE INCOMING BOARD AND CAUSED THE DESTRUCTION OF UNION RECORDS AND OTHER UNION PROPERTY FOLLOWING HIS ELECTION LOSS

There was also evidence that theft and vandalism occurred at the Local during the outgoing Board's lame duck period. The security cameras for the Local were disabled from December 20, 2018, the day Mendez lost the election, until January 1, 2019. (Exs. 20, 23) Passwords for the alarm system, phones, and computers were disabled or changed, requiring the hiring of an IT specialist to access them. A shredding company removed and destroyed a quantity of documents on December 27, during the period the cameras had been disabled. An IBT auditor had to spend months going through a painstaking process of "rebuilding" the Local's accounting records. (Ex. 10 at 2)

On December 21, 2018, following Mendez' reelection loss, Local 683 Secretary-Treasurer-Elect Fletcher emailed a transition letter to Mendez. (Ex. 8 at 1; Ex. 24) By December 27, 2018, Mendez had not responded to the letter. On that date, Fletcher emailed a second letter to Mendez. (Ex. 8 at 1, Ex. 22) On December 28, 2018, Frank Sevilla, the Local's Business Agent Coordinator and a Trustee, responded to the email sent to Mendez stating, effective January 1, 2019, that he [Sevilla] was the designated representative for Mendez and that Fletcher should contact him to schedule a meeting.⁵ (Ex. 8 at 1; Ex. 22) On December 29, 2018,

⁵ Mendez' designation of Sevilla as his representative, "**effective January 1, 2019**" was, on its face, a failure to comply with his obligations under the IBT Constitution, the Local's Bylaws and his Oath of Office. Article XXII, Section 2(c) states: "When an election of officers conducted under this Article results in a new principal executive officer, **the incumbent principal officer or designee shall meet with the principal officer-elect during the period between the date of election and the end of the term of office.** The incumbent principal executive or designee shall review with the principal officer-elect pending grievances and open contract negotiations, as well as the Local's financial records. This shall not affect the authority of the incumbent officer to manage the affairs of the Local until the expiration of the term of office." (Ex. 1) (emphasis added).

Fletcher responded to Sevilla and offered to meet him either that same evening, or on Sunday, January 1, 2019, or Monday, January 2, 2019. On December 30, 2018, Sevilla replied he was unavailable to meet until January 2, 2019. Fletcher responded immediately and reminded Sevilla that letters had been sent to Mendez on both December 21 and December 27, both of which sought to make prompt arrangements for a smooth transition. Sevilla responded that he would appear for a transition meeting on January 1, 2019, at 10:00 a.m. (Ex. 22)

On Tuesday, January 1, 2019, Fletcher, along with incoming Business Agent Richard Hurd (“Hurd”) and Trustee Abel Sabino, appeared at the Local’s building at 10 A.M. They waited for Sevilla to arrive for the scheduled meeting. Sevilla failed to show up.⁶ After 30 minutes, Sevilla was contacted via cell phone and text message. Sevilla stated he thought their meeting was for Wednesday, January 2, 2019. Fletcher reminded Sevilla that he had agreed to meet on January 1, 2019, and that Fletcher needed to get the Local’s office running. Sevilla said he would call Mendez to let Fletcher, Hurd and Sabino into the Local’s offices, because Sevilla didn’t have any of the alarm codes, but, according to Sevilla, Mendez did. Mendez showed up 30 minutes later, pulled his union-owned vehicle into the entryway of the Local’s building, opened the gate, and got out of the vehicle, which he was returning. Mendez was asked for entry codes, alarm codes and for keys to building. Mendez, who had been serving as the Local’s principal officer for several years, claimed implausibly that he “didn’t know anything” because “Sevilla had all that.” (Ex. 8; Ex. 23)⁷ As Mendez left the area in haste, he got into his wife’s vehicle, and he was observed to be laughing. (Ex. 8 at 2)

⁶ Fletcher’s attorney contacted the former Local attorney, Fern Steiner, who confirmed that Sevilla was to meet Fletcher on January 1, 2019.

⁷ The door to Mendez’ office at the Local had a keypad locking system. Incredibly, Mendez, who had previously occupied that office, denied having the entry code to a lock he would have had to open several times daily, for several years.

On January 2, 2019 at approximately 10:00 a.m., Sevilla finally met Fletcher and the Local's attorney, Florice Hoffman, at the Local. Sevilla claimed he only had keys to the office entry area on the lower level and a key to his office. Some of the offices were locked with no keys. Sevilla claimed he had no keys to the upper level and refused to go upstairs when requested. Sevilla provided his laptop and his cell phone.⁸ Sevilla claimed he only had the security code for the outside gate and no security for the office upstairs. Hoffman and Fletcher requested all the information requested in the transition letters that were sent twice to Mendez, on December 21 and 27, 2018, including passwords for upstairs and passwords to access the Local's Titan system. (Ex. 24) Sevilla said that Mendez had left everything for them on his desk. Sevilla only provided keys to his union-owned vehicle, his office key, and his cell phone. (Ex. 23)

As the designated representative for Mendez, Sevilla failed to provide any of the information necessary for the transition. The combined failures of Mendez and his designated representative Sevilla cost the Local needless time and expense in transitioning to the newly elected Officers and Board. Those failures constituted breaches of Mendez' fiduciary duties to the members and to the new Board.

Shortly after Sevilla left on January 2, William Doyle showed up and the new officers asked that he provide access to the upstairs offices and provide the alarm codes. Doyle said that he did not have the alarm codes. However, he said the alarm was turned off and he had the key to the upstairs office. When they entered the offices, Fletcher and Hoffman gained entry to Mendez' former office and discovered that Mendez had not left any passwords or codes, nor did he provide any instructions for Titan, the computers, the security system, the keypad code for

⁸ Sevilla at first refused to provide passwords to his phone or computer .

Mendez' former office or any keys for other offices. The Local officers were forced to call a locksmith at a cost of approximately \$467.62 to change the locks and get into the offices that remained locked. (Exs. 25, 26)

Cell phones

Although a number of putatively "returned" cell phones were found on Mendez' desk, Verizon records confirm that all of the Mendez staff (with the exception of Sevilla) failed to return their most recently issued Local 683 cell phones.⁹ (Ex. 8 at 4) The "returned" phones were in fact old devices, some of which had been assigned to the former employees dating back to 2015 and 2016. Restoring the Local Board's access to its cell phone accounts took about 30 days. (Ex. 8 at 4)

Computers

On January 2, 2019, Sevilla also referred Fletcher to the Local's IT consultant¹⁰ for further information regarding the Local's email domain, its computer system and its access passwords and codes. The consultant was contacted, and he said he would get back to Fletcher the next day with the passwords. On January 5, 2019, following several messages, via letter, email, text message and voicemail, Tran responded that he considered himself no longer to be responsible for providing the IT support the Local had paid him to perform. (Ex. 8 at 4)

Although Fletcher pointed out that the IT consultant was under contract to the Local, and not to any of its former officers, the consultant remained loyal to the former administration.

A new computer consultant, Roshan Uma, was called, and he determined that all the

⁹ As an example, on August 24, 2018, Mendez used his union credit card to purchase a new iPhone for himself, at a cost to the Local of \$861.99. That iPhone was never returned to the Local after Mendez left office in December 2018. (Ex. 27)

¹⁰ John Tran, aka Henry Huy Tran, of K & T Netcom, 3406 Bartlett, Rosemead CA 91770, was paid by the Local for his ongoing service. (Ex. 6 at Ex. 46)

computers except for the Titan computer had been either completely wiped or had important files and software deleted. Uma, who arrived at the Local's offices on January 1, 2019, described the offices "in shambles, with computer devices everywhere, unplugged and with remnants of shredded paper on the floors of individual offices." (Ex. 28) Uma also observed the following:

The computers within the office were completely locked out. The previous office members supplied faulty login information that would not allow the current office members to access the computers and needed information. Windows password recovery tools were required in order to gain access to the desktops.

The security system was logged out of, disabling all the cameras within the building. Password recovery procedures were taken in order to regain control over the building's camera security camera system. **There was no information given by the previous office members on gaining access to the security camera system.**

One of the windows laptops (The Toshiba Laptop) was formatted entirely. All information that was on the device was completely removed and deleted. There is no telling if the information was backed up on a separate [sic] drive and taken from the premise. Data recovery was unsuccessful, the laptop was restored to factory settings. There was signs of wear and tear on the laptop, from the keyboard to marks on the case, so the laptop was definitely in use previously.

One of the windows laptops (The HP Laptop) had almost all the information taken off of the device. Though the laptop was not completely formatted, there was very little information left on the laptop, suggesting the information has been moved or deleted. The device account was thereafter renamed "BITCHES" by the previous office members and left for the new office members to find. The charger for the laptop battery was missing and required the purchase of a new one.

The MacBook laptop computer was formatted completely to the point where the operating system was not functional. There is signs of definite wear and tear on the device, so the device was in use previously. Actions were taken to the restore the laptop back to factory settings by manually downloading and installing a brand new operating system. No data was left behind on the device, suggesting that the data had been moved or deleted.

The in-house server was left functioning improperly, denying access by any computer that is trying to contact and retrieve information from it. The login credentials to the server computer were not given by any representative and password recovery methods were unsuccessful. The physical hard drives were taken out of the computer and attached to a functioning computer in order to recover all the data that was saved to the computer. There is data ranging from the year 2017 all the way back to the year 2001 saved on the hard drives of the server.

All data that was on server was recovered successfully and is safely stored in the Local's new system of information.

The network switcher within the server room was not properly labeled by the previous IT technician. Action was taken in order to discover which switcher belonged to Local 683.

The internet password was not given by the previous office members. Luckily, one of the Windows laptops that was not completely wiped held the credentials for connecting to the WiFi. The credentials were recovered and changed.

The printer's configurations were changed and had to be restored manually. Previously, the computers would not be able to properly communicate with most of the printers within the building. After successful reconfiguration, every device within the office is able to communicate with all the printers.

A new server system was required to be installed and configured. The previous server system is completely inaccessible, forcing Local 683 to look into newer, more efficient methods of storing data.

(Ex. 29) (emphasis added.)

According to Uma, in order for the departing Mendez and other officers to have wiped the computer hard drives to the extent they were erased, they would have had to have taken multiple steps, navigating Windows protocols designed to protect against accidental deletions, and multiple prompts asking the user "are you sure?" The destruction of the operating systems and data, all of which were the property of the Local, was likely to have taken between thirty and sixty minutes per computer. Far from innocent user mistakes, the damage to the computers was a result of intentional and malicious vandalism. (Ex. 29)

There were no passwords left for the Titan program. It took two days and the help of Randy Cammack, President of Joint Council 42, to obtain the Titan passwords.¹¹ Cammack also agreed to send an auditor to review the financial information. (Ex. 8 at 5)

¹¹ Cammack apparently obtained the password by reaching out to the former IT consultant, John Tran, who had previously claimed to the new Local board members that he had no passwords for the computers or email system.

Alarm and Security Camaras

Because Mendez and Sevilla failed to provide the security codes and failed to notify the alarm company of the change in administration at the Local, the alarm company refused to provide the codes for the alarm to the new officers at the Local. (Ex. 8 at 5) This was another violation of the IBT Constitution, the Local's Bylaws, and Mendez' oath of office.

Union Vehicles

With the exception of Sevilla's union vehicle, each of the union-owned vehicles that were returned to the Local by the former Board members and business agents lacked a second set of keys.¹² Furthermore, the remote-control devices used to open the gate to the Local's building parking area were not returned by the former officers and staff. The indentations those devices caused when affixed to the vehicles' visors were still visible, indicating that those devices had been removed recently. (Ex. 8 at 6)

Destruction of Files

The new staff, including Fletcher and Hurd, went through the files left at the local union. There were no union business files other than old files prior to 2010, and all of the personnel files were missing. (Ex. 8 at 6) The only active files left were a few left by Sevilla. There was a large volume of shredded files in the office upstairs. (Ex. 29 at 1) In fact, on December 27, 2018, a shredding company removed several boxes of documents to be destroyed. (Ex. 30; Ex. 8 at 6)

All the Local's offices were cleared out of anything useful. But for the fact that some of the employer companies had copies of the Local's proposals on the open contracts that were left, the incoming Board would have had no indications about what stage in the negotiations they

¹² Sevilla returned both sets of keys and his garage door remote. He also returned his mobile phone and laptop. (Ex. 8 at n.7)

were.

As a result, the new Officers were not able to reconstruct all of the files for those pending or on-going negotiations. While all of the employers cooperated with the Local's requests for copies of proposals on pending negotiations, none of the employers were able to provide copies of any negotiation notes, which would have been in the sole possession of the former administration's business agents and officers. By January 2019, several of the negotiations had already expired at year-end. The employers informed the Local said they would start back up after January 1. (Ex. 8 at 6) For example, Hurd (the incoming business agent) reached out to Sevilla because the Local learned that Sevilla had never finalized the Pepsi contract, which had already been ratified. There were outstanding questions that needed to be resolved before Hurd could sign off on the contract. Sevilla told Hurd that Mendez instructed him not to finish it. The Pepsi Human Resources representative had emailed Sevilla about finalizing the contract on November 6, November 14 and December 4, 2018, with no response.¹³ (Ex. 23 at 2)

The Local was also left with open grievances. There were no records of those grievances at the Local. The only way the new officers learned about them was when Fern Steiner, the former Local attorney, forwarded all the grievance files. (Ex. 8 at 7)

Mendez and the former Board members and business agents took all the negotiation notes. All the notebooks were empty. Mendez and Sevilla, his transition appointee, should have met with Fletcher and let him know what contracts were open and should have given Fletcher the proposals and notes. (Ex. 8 at 6) In addition to creating a severe handicap for the incoming Board, Mendez and Sevilla presided over the destruction and removal of records necessary to the orderly and effective business of the Local. These actions and omissions were a grave disservice

¹³ Sevilla provided to Hurd his copy of the redlined copy of that ratified Pepsi contract. (Ex. 23 at 2)

to the members, who relied on the progress of negotiations for new contracts. Instead, Mendez left the new Local Officers essentially in the dark on contract negotiation issues. Those officers were forced to rely on the employers' willingness to share their proposals and notes from ongoing negotiations. (Ex. 8 at 7) In so doing, Mendez violated his oath of office in which he vowed to protect the members' interests in all dealings with employers.

Bank Account

The investigation has revealed that Mendez also violated his oath of office by failing to promptly deliver any money or property of the Union to his successor in office. Mendez and Sevilla failed to notify the Local's bank that there was going to be a transfer of authority. (Ex. 8 at 7) It took approximately one week after January 1, 2019 for the newly-elected Board to gain access to the Local's bank accounts and to change the authorized signatories on the accounts.

(Ex 8 at n. 8)

Incidents of Vandalism, Negligence, and Outright Theft of Union Property by Mendez and The Outgoing Board

Article X, Section 13 of the Local's Bylaws required that Mendez bond his successor in office and send the information to the "General Secretary-Treasurer before he transfers to his successor in office the funds, papers, documents, records, vouchers, worksheets, books, money and other property of the organization. All such records, vouchers, worksheets, receipts, books, reports and documents shall be preserved and retained at the Local Union's principal office for a period of six years." (Ex. 9)

Doyle used his union credit card to purchase prizes for a raffle for the benefit of members, which was scheduled to be held at the December 13, 2018 general membership meeting (prior to the election). Among the prizes purchased was an Amazon Kindle Fire. (Ex. 31) Although an identified member's name was drawn for that prize, Mendez never delivered it

to the raffle winner. Local 683 member Ray Schmidt, a Teamster with thirty years of service, was employed at Pasha Automotive Systems, a car hauling company. He participated in the Christmas raffle that took place on December 13, 2018. He did not stay until the end of the drawings, but was informed the following day that he had won a Kindle Fire device. (Exs. 31, 32) There is no record at the Local indicating the disposition of that Local property.

On December 20, 2018, Schmidt called the Local's office and was told by the women there that he just had to show up to pick up his prize. When Schmidt arrived, he saw Mendez and Nizell Rangel, a shop steward at Pasha. Mendez, who according to Schmidt, appeared to be intoxicated, told Schmidt, "You are just here to gloat. The office is closed."¹⁴ Schmidt pointed out to Mendez that he had been informed by the office staff that he could stop by that day to pick up his raffle prize. However, Mendez angrily dismissed Schmidt and sent him away by pointing at the garage gate. (Ex. 32)

Schmidt's attempt to collect his raffle prize was captured on video. Mendez, Sevilla and Rangel, the shop steward from Schmidt's employer, were shown to ignore Schmidt, who was waiting at the closed garage gate. After a time, a truck from within the garage left the premises by opening the gate with a remote-control device. Schmidt approached Mendez, who can be seen speaking sternly and berating him sending him away without providing to him the prize he had won during the raffle. (Ex. 33) To date, Schmidt has not received the prize. (Ex. 32)

E. MENDEZ ENGAGED IN A PERVASIVE PATTERN OF INTENTIONAL HARASSMENT, THREATS AND VERBAL ABUSE DIRECTED AT FELLOW TEAMSTERS AND THEIR FAMILY MEMBERS

On December 20, 2018, Robert Browning ("Browning"), a Local 683 member since

¹⁴ December 20, 2018 was the day of the announcement of the Local's election results. Schmidt, who was not politically active in the Local, had not been aware that the election result was announced that day. When Mendez accused Schmidt of "gloat[ing]" he realized what had occurred. (Ex. 32)

2005, who served as a Shop Steward at Sysco, was present at the Local's hall when the election results were announced. After the announcement that the Mendez slate had lost the election, Mendez started yelling at various individuals who had not supported him. As Browning was walking outside, he attempted to say some conciliatory words to Mendez. Browning told Mendez that "you taught me a lot of things."¹⁵ Mendez told him, "Don't worry, my clip shoots faster than your Glock."¹⁶ Mendez also threatened Browning, saying, "He [Mendez] would get me and my family; they are dead." Mendez further told Browning that "[Browning] didn't know who [he] was fucking with." (Ex. 11) Minutes after Browning had left the meeting room, Mendez emerged from the room and threatened Browning again, saying, "I am going to rip your fucking head off." (Exs. 11, 35)

Video footage showed Mendez arriving at the January 2019 membership meeting following his failed reelection efforts. The videos show Mendez confronting other members in a threatening manner: stepping directly in front of a member and standing inches away, placing his face directly in front of the member. In another section of the video, Mendez is shown confronting Shannon Silva, a former Local 683 Secretary Treasurer (who had originally hired him to work at the Local.) That confrontation was serious enough for the police to have been asked to intervene. (Ex. 36)¹⁷

¹⁵ Mendez' son, Christian, who was present at that meeting, but is not a member of the Local, said, "That's how you show loyalty, you stupid fuck." This incident was captured on the Local's video equipment. (Exs. 11, 35)

¹⁶ The terms "clip" and "Glock" are related to firearms. A "clip" is a term often used colloquially to refer to a magazine, which is the proper term for a device used to supply ammunition to the chamber of a semi-automatic weapon. "Glock" is a brand name for a variety of semi-automatic pistols.

¹⁷ Although conduct subsequent to Mendez' April 2019 withdrawal is outside of IDO jurisdiction, the IIO notes that Mendez' abusive conduct toward other Teamsters has continued. Ten months after his election loss, Mendez continued to verbally abuse and threaten members he viewed as political opponents. In October 2019, Mendez drove up to a Local 683 member who had campaigned for Mendez' opponent and yelled and threatened him, saying, *inter alia*, "do you want some you motherfucker?" (Ex. 34)

Furthermore, on May 5, 2020, Mendez approached a Local 683 member—a merchandiser for Coca Cola—at a Food4Less store in Santee, California, approximately one mile from Mendez' residence. Mendez put his shopping cart in front of the merchandiser's cart and then proceeded to berate him, calling Local 683 office manager Krista

IV. ANALYSIS

A. STANDARD OF PROOF

The standard of proof to establish the charge against Mendez is a preponderance of evidence. Rules Governing the Authorities of Independent Disciplinary Officers and the Conduct of Hearings, Section C (“The purpose of the hearing shall be to determine whether the proposed findings, charges, or recommendations regarding discipline or trusteeship found in the Independent Investigations Officer’s Investigative Report are supported by a preponderance of reliable evidence”); United States v. IBT [Simpson], 931 F. Supp. 1074, 1089 (S.D.N.Y. 1996), aff’d, 120 F. 3d 341 (2nd Cir. 1997); IBT Constitution, Art. XIX, Sec. 1(e).

1. Embezzlement

The prior actions under the Consent Decree are the controlling precedent for interpreting the IBT Constitution, Final Agreement and Order, ¶ 49. (Ex. 2 at 25) The IBT Constitution prohibits embezzlement and conversion of union funds. IBT Const. Art XIX, Section 7(b) (3). (Ex. 1) In addition, pursuant to the Final Agreement and Order, IBT members are specifically enjoined from committing an act of racketeering which includes embezzlement from the union. 18 U.S.C. § 1961(1). (Ex. 2)¹⁸ The standard for embezzlement under federal labor law, 29 U.S.C. § 501(c), is instructive in interpreting the IBT Constitutional provision. Investigations Officer v. Calagna, Decision of the Independent Administrator at 11 (May 9, 1991), aff’d, United States v. IBT, 777 F. Supp. 1123 (S.D.N.Y. 1991). The federal standard also governed Mendez’ Consent Decree obligation not to commit an act of racketeering. 18 U.S.C. § 1961(1).

Alvarez (the plaintiff in the sexual harassment suit that was the subject of the IIO’s previous charge recommendation) “a fucking whore,” telling him that Fletcher and Hurd are liars and he (the merchandiser) “has his head up [Hurd’s] ass.” Mendez also told the merchandiser to “tell Krista, Lee and Richard to pay the \$100,000 [settlement] back to the union.” (Ex. 38)

¹⁸ The Final Agreement and Order provides: “All current and future members, officers, agents ... are permanently enjoined from: (A) committing any act of racketeering activity, as defined in 18 U.S.C. §1961.” (Ex. 2 at 3)

For Mendez to be found to have embezzled union funds, it must be established that he acted with fraudulent intent to deprive the Union of its funds. See, United States v. Welch, 782 F.2d 1113, 1118 (8th Cir. 1984) (under any test, union officials violate Section 501(c) only when they possess fraudulent intent to deprive the Union of its funds”); Investigations Officer v. Caldwell, Decision of the Independent Administrator at 7 (February 9, 1993), aff’d, 831 F. Supp. 278, 283 (S.D.N.Y. 1993).

Determining whether a union employee had the requisite intent to embezzle should be done “on the basis of ‘all of the evidence considered together’ and ‘in light of all the surrounding circumstances.’” United States v. Welch, supra, 782 F.2d at 1119 (quoting United States v. Morissette, 342 U.S. 246, 275-76 (1951)). “[I]t is permissible to infer from circumstantial evidence the existence of intent.” United States v. Local 560, 780 F.2d 267, 284 (3d Cir. 1985) (citation omitted)

The Court of Appeals for the Second Circuit held that the two evidentiary factors to be considered in determining the issue of fraudulent intent are whether there was authorization from the union for the expenditure and whether there was a benefit to the union for the payments at issue. See, e.g., United States v. Butler, 954 F.2d 114, 118 (2d Cir. 1992); United States v. IBT [Kenny, Moreno and Guillory], 2014 U.S. Dist. LEXIS 186808 (S.D.N.Y. 2014), affirmed, 600 Fed. Appx. 8; 2018 U.S. Lexis 774 (2d Cir. 2018). The severance payments Mendez caused to be made were unauthorized, in that authorization was not obtained from the Executive Board, and the Executive Board-elect, and the members, as the IBT Constitution and Local Bylaws required. (Exs. 1,9) In addition, before he made the unauthorized payments, Mendez was reminded of his Bylaw obligation by the incoming officers. (Ex. 24) Mendez’ violations of the IBT Constitution and Local Bylaws evidenced his intent to embezzle. The

payments served no Union purpose. The payments only personally benefited the defeated officers and the six employees.

The Second Circuit Court explained in Morrissey v. Curran, 650 F.2d 1267 (2d Cir., 1981) that Congress “did not contemplate giving free rein through the device of authorization in the use of union funds for the personal benefit of union officers.” Id. at 1273. As the Morrissey Court found, problems of “questionable spending practices” by “unrestrained” union management were particularly likely to occur in an entity such as Local 683, whose former Secretary Treasurer used members’ money without any opportunity for members to review and influence the Local’s actions through elections or in any other manner. Id. at 1273. Here members, whose money was used without restraint by Mendez, the lame duck Local Secretary Treasurer, and the incoming Board-elect, were prevented from having any influence on the Local expenditures, as the IBT Constitution and the Local’s Bylaws required.

The other Local Executive Board-Elect members—whose approval was necessary and not obtained—were not informed of the payments. As was well known to Mendez, these expenditures would only be discovered by the incoming Secretary Treasurer and Board members after taking office. In addition, Mendez breached his fiduciary duty under 29 U.S.C. § 501(a) when he took actions to destroy computer records, shred and remove physical records, and withhold computer passwords. These actions obstructed the new Board from discovering the full extent of the embezzlements and violations of the IBT Constitution, the Local Bylaws and Mendez’ Oath of Office.

Thus, Mendez acted wrongfully when he believed it could be concealed, providing further evidence of intent. There were no checks on Mendez acting in his self-interest. With the unauthorized payments as described above, Mendez’ actions go beyond breaches of fiduciary

duty and into the realm of embezzlement.

The Second Circuit further noted failure to obtain necessary authorization was even more of a problem in an entity like Local 683 because the officers themselves were setting compensation and approving self-dealing without any check on their actions such as a public company's committee of outside directors. Id. at 1274. As the court found, “[t]he fiduciary standards for union officers impose liability upon them when they approve their receipt of excessive benefit, significantly above a fair range of reasonableness.” Id. at 1275. When, as here, they do not have any approval, the conduct is even more blatantly violative.

The Local payments equal to what the Local paid to funds as part of their compensation to Mendez and other Local employees were a personal benefit and required close scrutiny by Mendez before he caused them to be made. Ray v. Young, 753 F.2d 386, 390-391 (5th Cir., 1985); Brink v. DaLesio, 496 F. Supp. 1350, 1357 (D. Md., 1980), rev'd in part on other grounds, 667 F.2d 420 (4th Cir. 1981) There was no Board approval by either the lame duck Board, or the incoming Board, for these expenditures, which Mendez failed to present for approval to the members. There was no explanation in Local records as to why the Local was paying these expenses. Under the circumstances, including Mendez' ignoring whether these particular payments—which benefitted himself and were not for a Local purpose—had actually been authorized and their routine practice of ignoring Bylaw restraints on their use of Local money, the evidence establishes intent to embezzle. United States v. Long, 952 F.2d 1520 (8th Cir. 1991), aff'd on appeal following remand, United States v. Cantrell, 999 F.2d 1290 (8th Cir, 1993).

Furthermore, the use of a shredding company to dispose of a quantity of documents enabled Mendez to further violate Article X, Section 13 of the Bylaws by failing to bond his

successor and transfer to the Officers and Board-Elect the funds, papers, documents, records, worksheets, books, money, and other property of the organization to his successor in office.

The totality of the circumstances surrounding Mendez' conduct in causing the Local to issue the unauthorized payments that transferred Union funds to himself and the six other outgoing employees evidences his intent to embezzle. Mendez, knowing his re-election bid had failed and despite explicit IBT Constitutional and Bylaw prohibitions against such conduct, after the election results transferred without the required authority at least \$110,120 of Local money to himself and six others. Mendez' intent to embezzle was shown by his violations of the IBT Constitution and Local Bylaws which required that any extraordinary expenditures, as defined therein, made by outgoing Local officers be approved by the new Executive Board-elect and the members. (Ex. 9 at Art. XVI, Sec. 20; Ex. 1 at Art. XXII, Sec. 4(e))

Moreover, the Local Executive Board did not approve these payments as the Local Bylaws required. (Ex. 26 at 14-15) United States v. IBT [Wilson, Dickens and Weber], 787 F. Supp. 345, 352 (S.D.N.Y. 1992) (“... failure to comply with [the Bylaws] gives rise to an inference of fraudulent intent.”), aff'd, 978 F.2d 68 (2d Cir. 1992). The payments had no benefit to the Local and only benefitted the six former officers and former employees. See Morrissey v. Curran, 650 F.2d at 1273 (2d Cir. 1981) (Union officers not given free rein to use union funds for personal benefit under the guise of authorization.)

2. Breaches of Fiduciary Duty

“As a fiduciary, an IBT officer enjoys the trust of the general membership. In exchange for this privilege, each officer is bound to serve the membership's interest.” United States v. IBT [“Ross”], 826 F. Supp. 749, 756 (S.D.N.Y.), aff'd, 22 F.3d 1091 (Table) (2d Cir. 1994) (internal quotation marks omitted). In order to serve the Union, its officers cannot be passive or exhibit willful ignorance. United States v. IBT [“Sansone”], 792 F.Supp.1346, 1354 (S.D.N.Y.1992),

aff'd, 981 F.2d 1362 (2d Cir. 1992). In other words, “IBT officers cannot avoid responsibility ‘by shutting their eyes to allegations’ that their fellow IBT members engage in corrupt or improper activity.” United States v. IBT [“Hahs”], 652 F. Supp. 2d 447, 452 (S.D.N.Y. 2009) (quoting United States v. IBT [Coli”], 803 F. Supp. 748, 755 (S.D.N. Y. 1992).

Mendez breached his fiduciary duties as Secretary Treasurer and principal officer under 29 U.S.C. § 501(a) by failing to ensure the property and records of the Local be preserved and transferred promptly to the Executive Board-elect.

V. PROPOSED CHARGES

Based upon the evidence discussed in the above Report, it is recommended that the following charges be filed against Mendez:

Charge One

While a Local 683 officer, you embezzled and converted Local 683 funds to your own use, violated Federal law and committed an act of racketeering in violation of 29 U.S.C. § 501(c), the IBT Constitution, Art. XIX, Sec. 7(b)(3) and (11) and Art. XXII, Sec. 4(e), and the permanent injunction in United States v. International Brotherhood of Teamsters; to wit:

As described in the above report, in December, 2018, while Secretary Treasurer of Local 683, you embezzled at least \$110,120 from Local 683 through causing the issuance of payments that transferred Local money to pay for unapproved payments for salary, vacation, severance and bonuses to yourself and six other then-Local employees without required authorization and without a union purpose.

Charge Two

It is further recommended that Mendez be charged as follows:

As described in the above report, while the Local 683 Secretary Treasurer, you brought

reproach upon the IBT when you breached your fiduciary duties, failed to meet with or designate a willing and qualified representative to meet with the incoming officers during the period between the date of election and the end of the term to review pending grievances, open contract negotiations, and the Local's financial records, and destroyed union property and records in violation of 29 U.S.C. § 501(a), IBT Const. Art. XXII, Sec 2(c), and IBT Const. Art. XIX, Sec. 9(b)(1) and (2).

Charge Three

It is further recommended that Mendez be charged as follows:

As described in the above report, you brought reproach upon the IBT when you violated your membership oath, knowingly harmed a fellow Teamster, and retaliated and threatened to retaliate against a fellow Teamster for exercising rights under the IBT Constitution in violation of IBT Const. Art. II, Sec. 2(a), Art. XIX, Sec. 7(b)(2) and (11); *to wit*: you engaged in a pervasive pattern of verbal and physical harassment of officers, employees, Local 683 members and their families.