



## **CODE OF ETHICS**

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### **PREAMBLE**

WHEREAS, fair and ethical practices are fundamental to the proper functioning of the International Longshoremen's Association, AFL-CIO (hereinafter referred to as "ILA"), and that appropriate operation can only be achieved and sustained if all officers, employees, and agents of the ILA, its Districts, its constituent Locals and other entities observe the highest standards of ethical conduct, and

WHEREAS, by the imposition of certain trusteeships, internal union discipline, and other techniques, the ILA President and the ILA Executive Officers are committed to eliminating corrupting influences from the ILA, its Districts, its constituent locals and other entities within the Union, and

WHEREAS, for the benefit of the ILA, its Districts, its Locals, other entities, and members, a Code of Ethics including a system of investigatory and disciplinary procedures designed to rid the union of corrupting influences and guide the future conduct of the union is deemed beneficial, the ILA Executive Officers hereby adopt the following Code of Ethics.

### **CODE OF ETHICS**

The Code is a set of fundamental values to guide the officers, employees and rank-and-file members in their day-to-day decision-making and conduct. It is intended to express the ILA's fundamental values, and guiding principles. The Code supplements the obligations already imposed on the ILA, its Districts, and constituent Locals, officers, employees and rank-and-file members by the ILA Constitution, federal and state law, and applicable regulations.

The Code and its enforcement provisions shall apply prospectively to guide the future conduct of the ILA, Districts, and Locals, and officers, employees and members, and union trustees and employees of any political action committee.

The Code is meant to complement the ILA Constitution, Local bylaws, and other required rules of conduct, not to substitute for them. The Code cannot and does not supersede governing laws, including the Labor Management Reporting and Disclosure Act ("LMRDA") and the laws of Canada.

## **I. Democratic Practices**

1. The ILA's traditions, its Constitution and federal law protect the democratic rights of ILA members to participate fully, without fear, abuse, or intimidation, in all union affairs. To that end, the following principles shall be respected.
2. Each member in good standing shall be entitled to full participation in union self-government. Each member in good standing shall enjoy full freedom of speech and the right to participate in the democratic decisions of the ILA and his local union. Subject to reasonable rules, regulations, and qualifications, each eligible member shall have the right to run for office, to nominate through duly established constitutional procedures, and to vote in free, fair and honest elections. In a democratic union, as in a democratic society, every member has certain rights, but he also must accept certain corresponding obligations. Each member shall have the right to freely criticize the policies and personalities of union officials; however, this does not include the right to undermine the ILA, its Districts or its constituent local unions as institutions; or to carry on activities with complete disregard for the rights of other members and the interests of the ILA or its Locals; or to subvert union goals in collective bargaining or to advocate or engage in dual unionism.
3. Local union membership meetings shall be held regularly, with proper notice of time and place and shall be conducted in an atmosphere of fairness and democracy, and in accordance with Articles XII and XIII of the ILA Constitution.
4. All ILA and Local union rules and laws must be fairly and uniformly applied, and disciplinary procedures shall be fair and afford due process to each member as required by the LMRDA, the ILA Constitution and this Code of Ethics.
5. The ILA and Local unions shall ensure that their operations are conducted in a democratic and fair manner. Regularly scheduled Local union elections shall be conducted by secret ballot. Corruption, discrimination or anti-democratic practices shall not be tolerated.

## **II. Fiduciary Duties**

1. The officers of the ILA and its Local unions have a duty to exercise their authority solely on behalf of and for the benefit of the union and its members. These officers must set aside their personal interests and act in the best interests of the union and its members.
2. Officers shall avoid conflicts of interest between the needs of the union and their own personal interests.
3. Officers should report any real or potential conflicts of interest to the Executive Council of the ILA or the Executive Board of the Local union as applicable.

4. The fiduciary duty to act on behalf of the union lies at the heart of ethical practices required by the ILA. This is a high calling and one that is seen in action every day, as those working for the union put in countless hours and tireless effort to improve the union, assist its members and advance the cause of workers everywhere. The fiduciary duty owed to the union has many components as set forth in more detail below.

### **III. Financial Practices**

1. Union funds are held in trust for the benefit of the membership. The membership is entitled to assurance that their funds are not dissipated and are spent for proper purposes. The membership is also entitled to be reasonably informed as to how union funds are invested or used.

2. The union should not permit any of its funds to be invested or expended in a manner which results in the personal profit or advantage of any officer or representative of the union.

3. Neither the ILA, Districts nor any Local union shall make loans to its officers, representatives, employees, members, or members of their families, for the purpose of financing the private business of such persons.

4. Officers and representatives are prohibited from accepting money or other things of value from any employer or any agent of an employer in violation of applicable law.

5. The solicitation or receipt of a bribe, kickback or tip in connection with union business or a union benefit plan is prohibited.

### **IV. Union Benefit Plans**

1. No official, representative or employee of the ILA, a District or a Local union, or any union trustee of a benefit fund, shall receive fees or salaries of any kind from a fund established for the provision of health, welfare or retirement benefits, except for reasonable reimbursement of expenses provided for in a collective bargaining agreement or trust agreement covering ILA represented employees and expressly approved by the appropriate Board of Trustees, or, in the case of an employee of the Fund, where it has been authorized; except that any person who already receives full-time pay from the ILA, or an ILA affiliate shall not receive compensation from any ILA or ILA local affiliate plan except for reimbursement of expenses properly and actually incurred.

2. Persons who serve as fiduciaries of a benefit plan covering members or employees of the union shall faithfully serve the best interests of the beneficiaries of the plan in accordance with the requirements of applicable law.

3. Persons who serve as fiduciaries of a benefit plan covering members or employees of the union shall exercise their duties with respect to the plan with the care, skill, prudence and diligence under the circumstances that a prudent person familiar with such matters would use acting under similar circumstances.

4. Neither persons who serve as fiduciaries nor any member of the fiduciary's family shall profit personally from his or her position in the plan, other than through benefits payable under the generally applicable rules of the plan or reasonable compensation payable by the plan for services rendered the plan, which services are necessary for the establishment or operation of the plan.

#### **V. Business and Financial Activities of Union Officials**

1. No officer or representative of the ILA, the Districts or Local unions shall have a personal financial interest which conflicts with his union duties.

2. Except through stock purchase plans, profit-sharing or retirement plans, no officer or representative shall have any substantial interest in a business with which the ILA bargains collectively, as provided by applicable law.

3. No officer or representative shall accept bribes, kickbacks, under-the-table payments, tips, gifts, entertainment or any personal payment of any kind, other than regular pay and benefits for work performed as an employee, from an employer with which the union bargains collectively or from a business or professional enterprise with which the union does business.

4. Federal law requires the retention of certain records for specific minimum periods of time. Officers of the union should familiarize themselves and comply with all applicable law regarding retention of records.

5. Destruction of union records, except in accordance with established law and union procedures, is prohibited.

6. Vendors should be selected solely on the basis of cost, quality, timeliness, location, convenience, and whether the vendor is unionized. Knowingly paying excessive amounts for goods or services is a breach of fiduciary duty. In selecting a vendor, comparison shopping may be necessary; cost is not the sole criterion. It is not necessary always to select the least expensive provider of goods or services if other factors such as experience and dependability of the vendor and/or quality of the product outweigh cost.

7. The principal or a designated officer of each Local union is responsible for documenting the reasons for selecting vendors.

## **VI. Prohibited Conduct**

1. No officer, representative or employee, and no union trustee of any benefit fund, shall engage in "prohibited conduct." The following conduct is prohibited:

(a) committing any act of racketeering, as defined in 18 U.S.C. Section 1961(1) (a complete list of these crimes is set forth in Appendix A, which is appended to this Code);

(b) knowingly associating with any member or associate of an organized crime family or syndicate (a definition of "knowingly associating" and the exceptions to that definition are described in Appendix B);

(c) knowingly allowing any organized crime member or associate to influence the affairs of the Union;

(d) knowingly associating with individuals barred from union activity, as set forth in Appendix B;

(e) soliciting or accepting payments for jobs or other employment preferences from any member, employee, or prospective employee or member; and

(f) interfering in any way with the operation of this Code of Ethics or with the persons responsible for its administration.

2. No officer, representative or employee shall knowingly aid, abet or assist any "barred person," as that term is defined in Appendix B in participating in the affairs of the ILA, a District, the Local unions or any trust or benefit funds. The Ethical Practices Counsel shall prepare a list of barred persons which shall be periodically updated. Each local shall maintain and make available the list.

## **VII. Compliance and Enforcement System**

1. To ensure compliance with the Code of Ethics, the ILA will provide education and training on a continuing basis for all officers, representatives, employees, and members. Officers will receive further education regarding these matters through the ILA's General Counsel's office and/or attendance at established programs geared to Union officials.

2. The ILA hereby creates the permanent position of Ethical Practices Counsel for purposes of dealing with organized crime influences, corruption, and enforcing the provisions of Part VI of

this Code. The ILA President, with the approval of the Executive Officers, shall appoint an Ethical Practices Counsel from a list of recommended candidates submitted to the President. The Ethical Practices Counsel shall have an unimpeachable reputation for integrity, have law enforcement experience including experience in conducting investigations and preparing investigative reports, be an attorney, and be familiar with the structure and purposes of labor unions. As a condition of the appointment, the Ethical Practices Counsel shall resign any employment or membership he may have with any ILA affiliate and shall sign an agreement not to seek or accept any office or other employment with any ILA affiliate or with a company that employs ILA members for two (2) years from the termination of his position as Ethical Practices Counsel. The Ethical Practices Counsel shall be retained for three (3) year terms and can be reappointed. He shall not be removed except for good cause as found by the ILA President, and concurred in by the ILA Executive Council. The Ethical Practices Counsel shall receive compensation in an amount set by the ILA Executive Council.

3. The Ethical Practices Counsel shall investigate allegations of organized crime influence, corruption, or engaging in prohibited conduct under Part VI. The Ethical Practices Counsel shall be sensitive to the danger of unresolved allegations during political campaigns because of the irreparable harm that can be caused to a person wrongly accused of a violation. The Ethical Practices Counsel's role does not include the investigation of routine complaints or grievances by members, or of alleged violations of the ILA Constitution, unless the matter also involves an allegation of organized crime influence, corruption or prohibited conduct under Part VI above. To avoid the possibility of interference with other investigations and/or to avoid a duplication of efforts, the Ethical Practices Counsel shall have the discretion to defer to law enforcement agencies or other agencies or individuals charged with the obligation of investigating organized crime influence, corruption or conduct otherwise prohibited by the union under Part VI above. Should a situation so merit, and in the Ethical Practices Counsel's sole discretion, the Ethical Practices Counsel may refer a matter to any appropriate law enforcement agency for further investigation, and, if appropriate, may do so without notice to the ILA.

4. The ILA hereby further creates the permanent position of Independent Appellate Officer for purposes of hearing any appeals from decisions of the ILA Executive Council on disciplinary matters brought before the Executive Council by the Ethical Practices Counsel. The Independent Appellate Officer shall be a former judge, or otherwise highly qualified individual, shall have an unimpeachable reputation for integrity, and shall be familiar with the structure and purposes of labor unions. As a condition of the appointment, the Independent Appellate Officer shall resign any employment or membership he may have with any ILA affiliate and shall sign an agreement not to seek or accept any office or other employment with any ILA affiliate or with a company that employs ILA members for two (2) years from the termination of his position as Independent Appellate Officer. The Independent Appellate Officer shall be retained for the same period as the Ethical Practices Counsel, and can be reappointed. He shall not be removed except for good cause as found by the ILA President, and concurred in by the ILA Executive Council. The

Independent Appellate Officer shall receive compensation in an amount set by the ILA Executive Council.

5. The Independent Appellate Officer shall hear appeals on disciplinary matters brought before the ILA Executive Council by the ILA Ethical Practices Counsel. The procedure for any appeal to the Independent Appellate Officer from a decision of the ILA Executive Council is set forth in Appendix C. The Independent Appellate Officer shall conduct a de novo review of the record evidence submitted to the ILA Executive Council by the Ethical Practices Counsel and by the party charged. In his discretion, the Independent Appellate Officer may receive and consider evidence that was not submitted to the ILA Executive Council. Any additional evidence shall be received by the Independent Appellate Officer under oath. The Independent Appellate Officer may require any officer, agent, representative, member or employee of the ILA to produce any book, paper, document, record, or other tangible object, for use in any appeal.

6. An appeal shall not have the effect of staying the final decision of the ILA Executive Council. However, the Independent Appellate Officer may, on the motion of any party, stay any decision pending the outcome of the appeal. The decision of the Independent Appellate Officer shall be the final decision of the ILA and shall be binding on the parties.

7. The ILA shall purchase a policy of insurance and/or bonds, in an appropriate amount, to protect the persons holding the positions of Ethical Practices Counsel and Independent Appellate Officer, and any persons hired by or acting on his behalf, from personal liability for any of their actions under this Code. If such insurance is not available, or if the ILA Executive Council so elects, to the extent permissible by law, the ILA may indemnify the Ethical Practices Counsel and Independent Appellate Officer, and any persons hired by or acting on their behalf, from personal liability (and costs incurred to defend against any claim of liability) for any of their actions under this Code.

8. The Ethical Practices Counsel shall have the authority and duty to investigate and file charges against any officer, representative, employee or member of the ILA.

9. If the investigation by the Ethical Practices Counsel indicates that a charge or charges should be filed, the Ethical Practices Counsel shall prepare a complete report of the investigation supporting the charge or charges. Any charges filed by the Ethical Practices Counsel must be filed within a reasonable time after completion of the Ethical Practices Counsel's report of his investigation, and, except for good cause shown, this time period should not exceed three months following completion of the required report. The Ethical Practices Counsel shall then file the charge with the ILA Executive Council in accordance with Article XVIII of the ILA Constitution. The procedures for those hearings and for any subsequent appeal to the Independent Appellate Officer are set forth in Appendix C.

10. In all proceedings before the Ethical Practices Council or Independent Appellate Officer, a member is entitled to be represented by legal counsel or by a member in good standing of the ILA. Failure to cooperate timely with the Ethical Practices Council or the Independent Appellate Officer by refusing to respond to a request to answer questions or provide documents, or by knowingly providing false or fraudulent answers or documents, is a violation of this Code. Assertion of the Fifth Amendment privilege against self-incrimination shall constitute a failure to cooperate.

11. The ILA General Counsel, in conjunction with the Ethical Practices Council, shall study the operations of the Union and recommend changes to the Executive Council to improve those operations in order to prevent and eliminate corruption and racketeering activity. The operations that the ILA General Counsel's Office and ILA Ethical Practices Council shall study include, but are not limited to, the following:

- (a) the procedures used by the Union to investigate and discipline misconduct by the officers, representatives, employees, and members;
- (b) the procedures used to fill vacancies in Union positions;
- (c) the procedures used to select service providers;
- (d) the employment procedures;
- (e) the practices relating to the imposition of trusteeships and other sanctions against subordinate organizations; and
- (f) the administration of the Code and the need for modification, if any.

12. Within twelve months from the appointment of the Ethical Practices Council, the ILA General Counsel and the Ethical Practices Council will submit a report, making recommendations to the ILA Executive Council based upon their study.

13. The ILA will provide the Ethical Practices Council and Independent Appellate Officer with sufficient resources to fulfill their mandate. The Ethical Practices Council and Independent Appellate Officer shall have complete and unfettered access to, and the right to make copies of all books, records, accounts, correspondence, files, and other documents of any individual or entity.

14. The Ethical Practices Council and Independent Appellate Officer shall have the right to take and require the sworn statement, or sworn oral deposition, or sworn testimony of any officer,

representative, employee, or member of the Union. If any person refuses to testify or to provide evidence before the Ethical Practices Council or the Independent Appellate Officer, including a refusal on the basis of the privilege against self-incrimination, discipline may be imposed on such person for that reason alone.

15. The names of any persons to be employed by the ILA, a district, or any Local union, must be submitted to the Ethical Practices Council for review, except for positions exempted by the Ethical Practices Council. If the Ethical Practices Council concludes that the appointment is inconsistent with the objectives and purposes of the Code of Ethics, he may disapprove the appointment.

### **VIII. Duty to Report Felony Arrests, Indictment or Criminal Charges, and Suspension of Criminally Charged Officers**

1. Any officer of the ILA, a District, or Local union, and all members serving as trustees of any employee benefit plan, fund, or trust must notify the Ethical Practices Council in writing within five (5) days whenever they learn that any officer, representative, employee, or labor trustee of the ILA, a District or Local union has been arrested, indicted, or otherwise criminally charged with any felony or with violation of any law relating to the affairs of a labor organization or employee benefit plan.

2. Upon receipt of notice that any officer, representative, employee or labor trustee of the ILA, District or Local union has been criminally charged with any felony violation of a federal or state law, or for any violation of a federal or state law relating to the conduct of the affairs of a labor organization or employee benefit plan, the ILA President shall place the accused individual on a temporary leave of absence with pay. The Ethical Practices Council shall then promptly institute an investigation regarding the allegations, and within 30 days provide a written report of his investigation to the ILA Executive Council and the General Counsel's Office. After considering the Ethical Practices Council's investigative report and after conferring with General Counsel, the ILA Executive Council shall determine:

(a) whether the offense for which the accused individual was charged constitutes "prohibited conduct" under Part VI above; and

(b) the appropriate discipline that should be imposed on the accused individual, if any, including whether and for how long to continue the suspension and whether the suspension should be with or without pay; and

(c) whether the charge requires that any Local union impacted by the alleged criminal activity needs to be placed under trusteeship by the ILA.

3. The information gathered by the Ethical Practices Counsel shall be confidential until charges are brought.
4. The provisions of this Section are intended to be in addition to, and not in lieu of, any other rules that may be imposed by federal or state law, or by regulatory bodies like the Waterfront Commission.

### **IX. Hotline**

1. A toll-free telephone number will be created to serve as a Hotline for members to report any incidents or allegations of organized crime influence, corruption and/or prohibited conduct under Part VI above. The number for the hotline is 1-800-367-9011.
2. The Hotline will allow members to provide information to the Ethical Practices Counsel while maintaining their anonymity. The ILA waives its right to obtain information learned in confidence by the Ethical Practices Counsel.
3. The Hotline is not intended to be used for routine complaints about employers, Union officers, or ILA policy unless the matter involves an allegation of organized crime influence, corruption or prohibited conduct under Part VI above.

### **X. Hiring Hall Guidelines**

1. Many Local unions operate referral lists. An employer contacts the local union office to state that it needs workers, and the office then refers workers to the employer. Such referral systems should be operated with scrupulous fairness for all members as the members livelihood is at stake. There should be no discrimination in making a referral.
2. A Local union operating a referral system shall base referrals only on objective standards. Work assignments must be based only on these standards and the standards shall not be applied in an arbitrary or discriminatory fashion.
3. The procedure by which the referral list is operated must be in writing and available upon request to any member. The procedure must include a system for contemporaneously recording how each referral is placed. The record-keeping provisions of the referral system must be adequate to make it possible to check whether the system has been operating fairly and impartially.
4. Any officer, representative or employee of the ILA, a District or Local union who offers, solicits or accepts money or anything of value in return for a job assignment or membership in the union will be subject to discipline.

## **XI. Duty to Read and Apply This Code of Ethics**

1. It is the duty and obligation of every officer, representative, employee and member to read, and follow this Code of Ethics. Each officer, representative, employee and member shall verify to the Ethical Practices Counsel that he has read and understands the Code of Ethics.

### **Appendix A**

"Racketeering activity" means (A) any act or threat involving murder, kidnapping, gambling, arson, robbery, bribery, extortion, dealing in obscene matter, or dealing in a controlled substance or listed chemical (as defined in ' 102 of the Controlled Substances Act), which is chargeable under State law and punishable by imprisonment for more than one year; (B) any act which is indictable under any of the following provisions of title 18, United States Code: Section 201 (relating to bribery), section 224 (relating to sports bribery), sections 471, 472, and 473 (relating to counterfeiting), section 659 (relating to theft from interstate shipment) if the act indictable under section 659 is felonious, section 664 (relating to embezzlement from pension and welfare funds), sections 891-894 (relating to extortionate credit transactions), section 1028 (relating to fraud and related activity in connection with identification documents), section 1029 (relating to fraud and related activity in connection with access devices), section 1084 (relating to the transmission of gambling information), section 1341 (relating to mail fraud), section 1343 (relating to wire fraud), section 1344 (relating to financial institution fraud), section 1425 (relating to the procurement of citizenship or nationalization unlawfully), section 1426 (relating to the reproduction of naturalization or citizenship papers), section 1427 (relating to the sale of naturalization or citizenship papers), sections 1461-1465 (relating to obscene matter), section 1503 (relating to obstruction of justice), section 1510 (relating to obstruction of criminal investigations), section 1511 (relating to the obstruction of State or local law enforcement), section 1512 (relating to tampering with a witness, victim, or an informant), section 1513 (relating to retaliating against a witness, victim, or an informant), section 1542 (relating to false statement in application and use of passport), section 1543 (relating to forgery or false use of passport), section 1544 (relating to misuse of passport), section 1546 (relating to fraud and misuse of visas, permits, and other documents), sections 1581-1592 (relating to peonage, slavery and trafficking in persons), section 1951 (relating to interference with commerce, robbery, or extortion), section 1952 (relating to racketeering), section 1953 (relating to interstate transportation of wagering paraphernalia), section 1954 (relating to unlawful welfare fund payments), section 1955 (relating to the prohibition of illegal gambling businesses), section 1956 (relating to the laundering of monetary instruments), section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity), section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), section 1960 (relating to illegal money transmitters), sections 2251, 2251A, 2252, and 2260 (relating to sexual exploitation of children), sections 2312 and 2313 (relating to interstate transportation of stolen motor vehicles), sections 2314 and 2315 (relating to interstate transportation of stolen property), section 2318 (relating to trafficking in counterfeit labels for phonorecords, computer

programs or computer program documentation or packaging and copies of motion pictures or other audiovisual works), section 2319 (relating to criminal infringement of a copyright), section 2319A (relating to unauthorized fixation of and trafficking in sound recordings and music videos of live musical performances), section 2320 (relating to trafficking in goods or services bearing counterfeit marks), section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts), sections 2341-2346 (relating to trafficking in contraband cigarettes), sections 2421-24 (relating to white slave traffic), sections 175-178 (relating to biological weapons), sections 229-229F (relating to chemical weapons), section 831 (relating to nuclear materials), (C) any act which is indictable under title 29, United States Code, section 186 (dealing with restrictions on payments and loans to labor organizations) or section 501(c) (relating to embezzlement from union funds), (D) any offense involving fraud connected with a case under title 11 (except a case under section 157 of this title), fraud in the sale of securities, or the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance or listed chemical (as defined in section 102 of the Controlled Substances Act), punishable under any law of the United States, (E) any act which is indictable under the Currency and Foreign Transactions Reporting Act, (F) any act which is indictable under the Immigration and Nationality Act, section 274 (relating to bringing in and harboring certain aliens), section 277 (relating to aiding or assisting certain aliens to enter the United States), or section 278 (relating to importation of alien for immoral purpose) if the act indictable under such section of such Act was committed for the purpose of financial gain, or (G) any act that is indictable under any provision listed in section 2332b(g)(5)(B).

## **Appendix B**

A “barred person” is (1) any member or associate of any La Cosa Nostra crime family or any other organized criminal group, i.e., a racketeer, or (2) any person who has been prohibited from participating in Union affairs. An officer, representative, employee or member of the ILA, a District or a Local Union is prohibited from knowingly aiding, abetting or assisting a barred person from participating in Union affairs. An officer, representative, employee or member is also prohibited from knowingly associating with a barred person.

A person “knowingly associates” with a barred person if the person makes a calculated choice to associate with the barred person despite knowing of that person’s status as a barred person. A person can knowingly associate with a barred person only if that person knows that the individual is a barred person. Knowledge need not be absolute certainty. Public media sources may be an adequate source of knowledge that an individual is a barred person. Members in doubt regarding whether an individual is a barred person should make a confidential inquiry of the Ethical Practices Counsel’s Office via the toll-free hotline described in Article IX of the Code of Ethics.

The prohibition is against associating with barred persons, not the purpose or end result of the association. No criminal or improper purpose for the contact is required. The prohibition is aimed at the perception of others that barred persons have influence over Union affairs. For example, childhood friendships that extend into adulthood are prohibited even if they are limited to socializing

at parties, weddings, and funerals, etc., if the contacts with the barred person are ongoing and deliberate.

The contact with the barred person must be a conscious, calculated choice. It must be more than a fleeting or casual encounter, such as an unplanned, isolated instance of being at the same social event. On the other hand, a prohibited association may be just one planned contact with a barred person, such as a prison visit or a dinner meeting.

Knowingly permitting barred persons access to a Union hall or a Union event is prohibited. Seeking or utilizing the assistance of a barred person to obtain Union membership or to obtain employment with the Union is also prohibited, as is hiring, admitting to the Union, or assigning Union work to an individual at the request or suggestion of, or to curry favor with, a barred person.

Likewise, knowingly conducting non-Union business with a barred person, even if the business is lawful, is prohibited. For example, installing a new floor and cabinets for barred persons or preparing their income tax returns is prohibited, as is using barred persons to perform non-Union business.

There are only two exceptions to the prohibition against knowing association with barred persons: (1) necessary, legitimate Union business and (2) purely social relations with immediate family members. The first exception would apply if a barred person owned, represented, or was employed by a company whose employees were represented by the Union. Contacts that occur only as the necessary result of the ordinary, lawful conduct of Union business are permissible, but such contacts should extend no further than necessary. The business contact should not extend to a social contact because of the possible perception of others that the barred person has impermissible influence. A member must refuse a social invitation from a barred person even if the member conducts Union-related business with the barred person. Moreover, a member who has contacts with a barred person as permitted by this exception is encouraged to confidentially inform the Ethical Practices Counsel's Office about the contact. Even though the contact is permitted, the contact poses dangers to the Union and the member; if the Ethical Practices Counsel is alerted to the contact, Counsel can provide a measure of protection.

The prohibition against "knowingly associating" with a barred person does not include (a) a Union officer, representative, employee or member meeting or communicating with a barred person who is an employer to discuss the negotiation, execution or management of a collective bargaining agreement, or a labor dispute, when the Union officer, representative, employee or member represents, or seeks to represent, or would admit to membership the employees of that employer; (b) a Union officer, representative, employee or member meeting or communicating with a barred person who is a representative or member of a labor organization to discuss Union matters; (c) a Union officer, representative, employee or member meeting or communicating with a relative by blood or marriage solely for social purposes.

The second exception, for contacts for purely social relations with a relative by blood or marriage, is very limited. Maintaining a relationship with a barred person who is a relative is permissible if it is limited to lawful, social interactions. As used in this Code, the term “relative” shall mean a lineal descendent, stepchild, ancestor, sibling, spouse, or child of a lineal descendent, stepchild, ancestor or sibling.

## **Appendix C**

### **RULES OF PROCEDURE FOR HEARINGS INVOLVING INVESTIGATIONS AND DISCIPLINARY MATTERS ON CHARGES BROUGHT BY THE ILA ETHICAL PRACTICES COUNSEL**

#### **A. GENERAL**

1. Pursuant to the ILA Code of Ethics adopted in January, 2004, the following rules of procedure are hereby adopted, to take effect on January 1, 2006. These rules shall apply to:

- a. All proceedings based on charges filed by the Ethical Practices Counsel on or after January 1, 2006 under Article VII of the ILA Code of Ethics;
- b. All proceedings based on investigations undertaken by the Ethical Practices Counsel under Article VIII of the ILA Code of Ethics; and
- c. All appeals to the Independent Appellate Officer from final decisions of the Executive Council in proceedings brought under subparagraphs a and b, above.

2. For each proceeding commenced by the Ethical Practices Counsel under Article VII or Article VIII of the ILA Code of Ethics, the Secretary-Treasurer of the ILA shall establish a formal docket to be kept at a secure location within the headquarters of the ILA. The docket shall contain all charges, notices, pleadings, and other papers filed with the ILA Executive Council, the Ethical Practices Counsel, or the Independent Appellate Officer in the proceeding. A separate docket shall be maintained for each matter, with a separate number. The details of the numbering system will be formulated at a future date.

3. The Secretary-Treasurer shall maintain a separate document-summary sheet for each matter similar to those maintained by Federal Courts. The summary sheet shall indicate the matter number, the title of the matter, the date each document is filed and entered on the docket, with a brief description of the document. The documents filed in the docket shall constitute the original record of the proceeding.

**B. DISCIPLINARY CHARGES BROUGHT BY THE ETHICAL PRACTICES COUNSEL UNDER ARTICLE VII OF THE ILA CODE OF ETHICS.**

1. All charges by the Ethical Practices Counsel shall be in writing, and shall be filed with the Executive Council by delivery to the office of the ILA's Secretary-Treasurer at 17 Battery Place, 9<sup>th</sup> Floor, New York, New York 10004. A copy must be served on the charged party. The ILA's Secretary-Treasurer must hold the charges and all other pleadings and filed documents confidential and permit no one, except the parties, their authorized representatives, the ILA General Counsel, and the members of the Executive Council, to examine them during the pre-hearing and hearing stages of the proceedings.

2. Article XVIII, Section 3 of the ILA Constitution and Paragraph 29 USC, Section 411(a)(5) requires fair notice of charges in sufficient time to enable the member to defend himself. The charges should be specific enough to inform the member of the offense(s) with which he has been charged, but need not be as specific as a criminal indictment. The standards of particularity of Title 29 USC, Section 411(a)(5), as construed by the courts, shall be followed.

3. Within 15 business days of the filing and service of charges, the Ethical Practices Counsel shall identify to the member served with the charges, the documents which the Ethical Practices Counsel intends to offer into evidence at the hearing. Upon request of the member, or his authorized representative, the Ethical Practices Counsel shall make the documents available to the member, or his representative, by providing copies, or in the event the documents are too voluminous, the Ethical Practices Counsel shall make the documents available for inspection by the member or his representative. In the event the Ethical Practices Counsel determines that additional documents may be offered in evidence, the Ethical Practices Counsel shall promptly notify the opposing party or his representative of their identity to permit examination and inspection.

4. No later than seven business days before the date scheduled for the hearing, the Ethical Practices Counsel shall provide the member or his authorized representative with a list of the names of the witnesses that the Ethical Practices Counsel intends to call at the hearing. In the event that additional witnesses are needed or become available, the Ethical Practices Counsel shall promptly notify the charged party or his representative of their identities.

5. The hearing shall be conducted by the Executive Council, or by a committee appointed by the Executive Council, and shall be conducted in accordance with Article XVIII, Section 4 of the ILA Constitution.

6. The member charged is entitled to be represented at all stages of the proceedings by another ILA member in good standing or by counsel, at his own expense. Once counsel or an authorized

representative has appeared on behalf of a charged member, all subsequent papers shall be served on the counsel or representative.

7. The hearing shall be conducted in a courtroom-like manner, although strict evidentiary rules need not be applied. As is the custom and practice in labor arbitrations, hearsay may be admitted provided there is a demonstration of reliability. Documents admitted in evidence shall be suitably marked and made part of the record. All witnesses shall be sworn, and testimony shall be transcribed by an accredited court reporter.

8. The hearing shall be conducted at a location designated by the ILA Executive Council or by the committee established to hear the charges. An attempt shall be made to hold the hearing at a location convenient to all parties. Attendance at the hearing shall be limited to the parties and their attorneys or representatives.

9. The ILA Executive Council shall render a decision in writing, serve it on the parties, and promptly transmit it to the Secretary-Treasurer for entry on the docket, together with all papers and documents presented at the hearing.

### **C. INVESTIGATIONS BY THE ETHICAL PRACTICES COUNSEL UNDER ARTICLE VIII OF THE ILA CODE OF ETHICS**

1. Upon receipt of notice that the ILA President has placed an officer, representative, employee, or labor trustee of the ILA, District, or Local Union on a temporary leave of absence with pay, because the individual has been criminally charged as described in Article VII, section 2 of the ILA Code of Ethics, the Ethical Practices Counsel shall promptly institute an investigation regarding the allegations. by filing with the Secretary Treasurer a Notice of the investigation and serving a copy of the Notice on the accused party.

2. The Ethical Practices Counsel shall conduct the investigation in whatever manner, in his discretion, seems appropriate to the circumstances.

3. At the conclusion of the investigation, the Ethical Practices Counsel shall provide a written report and recommendation to the ILA Executive Council, with copies to the General Counsel's Office and to the accused party.

4. The final decision of the ILA Executive Council shall be in writing, filed with the Secretary-Treasurer, and served on the Ethical Practices Counsel and the accused party.

#### **D. APPEALS TO THE INDEPENDENT APPELLATE OFFICER**

1. An appeal to the Independent Appellate Officer may be taken by either the Ethical Practices Counsel or the charged party, or both, from the final, written decision of the ILA Executive Council.
2. A party seeking to appeal must, within 30 days of receiving the final decision by the ILA Executive Council, file a Notice of Appeal with the Secretary-Treasurer, send a copy to the Independent Appellate Officer, and serve the other party with a copy.
3. The Notice of Appeal shall indicate the name and docket number of the proceeding, the party or parties taking the appeal, the date of the final decision by the ILA Executive Council that is being appealed, and the names of counsel or authorized representatives for each party.
4. The party charged may be represented by counsel, or by an ILA member in good standing.
5. The parties shall have at least thirty days to prepare for the appellate hearing.
6. The Independent Appellate Officer, in his discretion and after consultation with the parties, shall adopt whatever procedures for briefing and for the hearing as are appropriate to the case.
7. The Independent Appellate Officer shall conduct a **de novo** review of the record evidence submitted to the ILA Executive Council by the Ethical Practices Counsel and by the charged party. The appellant shall provide a copy of that evidence to the Independent Appellate Officer.
8. In his discretion, the Independent Appellate Officer may receive and consider evidence that was not submitted to the ILA Executive Council. Any additional evidence shall be received by the Independent Appellate Officer under oath.
9. The Independent Appellate Officer may require any officer, agent, representative, member, or employee of, or entity within, the ILA to produce any book, paper, document, record, or other tangible object, for use in any appeal.
10. In order to maintain confidentiality, all papers on an appeal before the Independent Appellate Officer shall be filed only with the Secretary-Treasurer, the Independent Appellate Officer, and the parties or their counsel or authorized representative.
11. Any hearing on the appeal shall be conducted at a location selected by the Independent Appellate Officer with an effort to make the place convenient to all parties.
12. An appeal shall not have the effect of staying the final decision of the ILA Executive Council; however, the Independent Appellate Officer may, on motion of any party, stay any decision pending the outcome of the appeal.

13. The decision of the Independent Appellate Officer shall be the final decision of the ILA and shall be binding on the parties. After issuing the final written decision on appeal and serving copies on the parties or their counsel or authorized representatives, the Independent Appellate Officer shall transmit the decision, along with the original record and any additional papers filed on the appeal, to the Secretary-Treasurer for entry on the docket.

**As amended at the 52<sup>nd</sup> Convention,  
held in Hollywood, Florida  
July 23-26, 2007**