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October 28, 2022

JUDICIAL PANEL CASE NO. 22-97
Local 1549 Administratorship

GREETINGS:

Enclosed is my decision in the above-referenced case.

In Solidarity,

Carla Insinga
Judicial Panel Chairperson

CI:spp

- cc: Lee Saunders, President
- Elissa McBride, Secretary-Treasurer
- Executive Staff
- Teague Paterson, General Counsel
- Mike Sukal, Director, Organizing & Field Services
- Henry Garrido, Executive Director Council 37
- James Howell, Administrator, AFSCME Local 1549
- Benjamin Borges-Hernandez, Deputy Administrator, AFSCME Local 1549
- Jozette Dowdell, Deputy Administrator, AFSCME Local 1549
- Barbara Terrelonge, Deputy Administrator, AFSCME Local 1549
- Eddie Rodriguez, President, AFSCME Local 1549
- Alma Roper, Executive Vice President, AFSCME Local 1549
- Jim Hamlin-McLeod, 2nd Vice President, AFSCME Local 1549
- Jamaisa Johnson, 3rd Vice President, AFSCME Local 1549
- Felix Cooper, Secretary-Treasurer, AFSCME Local 1549
- Rhonda Myers, Recording Secretary, AFSCME Local 1549
- Chrystie Bullock, Sgt-At-Arms, AFSCME Local 1549
- Debbie Ann Gutierrez, Sgt-At-Arms, AFSCME Local 1549

Felix Camaro, Sgt-At-Arms, AFSCME Local 1549
Lionel Layne, Sgt-At-Arms, AFSCME Local 1549
Lydia Alexis, Officer-At-Large, AFSCME Local 1549
Melissa Tirado, Officer-At-Large, AFSCME Local 1549
Michael Butler, Officer-At-Large, AFSCME Local 1549
Monique Brown, Officer-At-Large, AFSCME Local 1549
Jodi McMillian, Officer-At-Large, AFSCME Local 1549
Esther Toussaint, Executive Board Member, AFSCME Local 1549
Josephine Barr, Executive Board Member, AFSCME Local 1549
Nina Morissey, Executive Board Member, AFSCME Local 1549
Sharon Hanson, Executive Board Member, AFSCME Local 1549
Arisleyda Estrella-Skinner, Executive Board Member, AFSCME Local 1549
Brenda Walker, Executive Board Member, AFSCME Local 1549
Carolyn Askew, Executive Board Member, AFSCME Local 1549
Felice Robertson, Executive Board Member, AFSCME Local 1549
Frances Gonzales, Executive Board Member, AFSCME Local 1549
Geraldine Morinia, Executive Board Member, AFSCME Local 1549
Jamaisa Johnson, Executive Board Member, AFSCME Local 1549
Kenneth Reid, Executive Board Member, AFSCME Local 1549
Lionel Layne, Executive Board Member, AFSCME Local 1549
Mattie Sykes, Executive Board Member, AFSCME Local 1549
Paulette Bailey-Castillo, Executive Board Member, AFSCME Local 1549
Vera Flowers, Executive Board Member, AFSCME Local 1549
Marshall Bellovin, Esq.
Edward Tobin, Esq.

JUDICIAL PANEL CASE NO. 22-97
Local 1549 Administratorship

On September 19, 2022, President Lee Saunders notified the Chairperson of the AFSCME Judicial Panel that he placed Clerical Administrative Employees, New York, New York Local 1549 ("Local 1549"), under administratorship pursuant to Article IX, Section 37 of the International Constitution. Local 1549 is affiliated with the New York City District Council of AFSCME Municipal Local Unions #37; the New York State AFL-CIO; and the New York City Central Labor Council AFL-CIO. Local 1549's jurisdiction includes clerical and administrative workers in New York City.

AFSCME Organizing and Field Services Eastern Region Director James "Jim" Howell was appointed to serve as administrator of the local, and AFSCME Field Coordinator Benjamin Borges-Hernandez and AFSCME District Council 37 Director of Field Operations Barbara Terrelonge were appointed to serve as Deputy Administrators of Local 1549. The officers and executive board members of the Local were notified of the President's actions and the matter was referred to the Judicial Panel for hearing pursuant to Article IX, Sections 39 and 40, of the International Constitution.

In imposing the administratorship, the President stated:

"In my opinion, an emergency situation exists in Clerical Administrative Employees, New York, New York Local 1549, AFSCME, AFL-CIO, in that the dissipation or loss of the funds or assets of the local is threatened and the local is acting in violation of the International Constitution."

Judicial Panel Chairperson Carla Insinga served as the Administratorship Hearing Board. Following due notice to all interested parties, a hearing was held on October 4,

2022, via Zoom video-teleconference. All testimony at that hearing was given under oath and a complete transcript was made by a professional court reporter.

Michael Artz, Esq., Associate General Counsel for the International Union, represented the International President.

DISCUSSION AND FINDINGS

Brother Jim Howell, appointed Administrator of Local 1549 and AFSCME Organizing and Field Services Director for the Eastern Region which includes New York, testified that Local 1549 represents employees within a variety of New York City departments and with a variety of roles including police department employees, 911 dispatchers, clerical and administrative support workers, parks and sanitation employees, health care workers and employees within the city law department, among others, and represents approximately 13,000 bargaining unit members. Brother Howell testified that Article XIII, Section 1 of the Local 1549 Constitution specifies that, "This local shall at all times be subject to the provisions of the Constitution of the American Federation of State, County and Municipal Employees."

Brother Howell testified that in April of 2022, he became aware of financial issues or problems within Local 1549. (TR 21) He had been made aware of member complaints concerning officer and former officer severance packages and compensation. (TR 22) Additionally, in August of 2022 he learned that some members of the Local's leadership attended a conference in California without providing the Local's chapter leaders the possibility of attending. (TR 24) Brother Howell stated that these concerns were shared with the AFSCME International Union's Financial Services Department and that a

subsequent financial affiliate review took place in May of 2022. (TR 24) He testified that given these complaints and the outcome of the financial review, he feared the continued loss of dues money and overall financial reserves if the administratorship is not in place. (TR 25)

Brother William Del Pino, Field Auditor, AFSCME International, testified that he and an associate Field Auditor, Paul Apata, conducted an audit of the finances of Local 1549 over a period of two weeks in May of 2022. Brother Del Pino testified that while the Local's officers were cooperative during the audit, they generally were not present while the work was being performed. (TR 35) The Local's accountant provided Brother Del Pino and Brother Apata with all the documents they requested. (TR 35)

Brother Del Pino testified regarding the audit results, IP2. He testified that the audit determined that there were significant violations of the AFSCME Financial Standards Code or departures from generally accepted business practices. These violations were presented in the draft report in IP2. The AFSCME International Auditing Department routinely prepares a draft report of its audit findings and provides the affiliate thirty days to respond with comments before the final report is issued. (TR 76) In this case, the emergency administratorship was imposed prior to the expiration of the thirty days. (TR 37) However, Brother Del Pino testified that in almost all cases, the draft report does not differ significantly from the final report. (TR 76-77) The violations in the report were as follows:

- The Local lacked documentation in meeting minutes or as part of the annual budget for approval of staff salaries or employee wage increases. Brother Del Pino

testified that the salaries were relatively high compared to other affiliates in addition to the lack of approval for the expenditures in the meeting minutes or the budget. (TR 40) He noted that the Local's salaries and wages are a significant part of the union's expenditures, and that the Financial Standards Code requires all expenditures to be documented with proper authorization. (TR 41) Additionally, the Local's Constitution requires that officer salaries must be authorized by the Executive Board and ratified by the Delegate Board, which Brother Del Pino found no documentation or evidence of in his review. (TR 45-47)

- Separation payments were made in the amount of \$170,470.78 related to the retirement of the Local's 2nd Vice President. Brother Del Pino testified that the policy for severance payments was unclear and that it caused him concern that a prior policy capping compensatory time payments was rescinded in June of 2021 just before the retirement, resulting in a larger payout. Approval of the payments to the 2nd Vice President was not reflected in Executive Board or general membership meeting minutes. (TR 42-43) Furthermore, Brother Del Pino testified that the complex legal requirements concerning compensatory time as related to eligibility for overtime meant the Local should have cleared the payments through legal counsel prior to making them, which did not occur. (TR 43-44)
- The Local had an American Express card with total charges in excess of \$255,000 from January 2020 to March 2022, with no written credit card policy and several instances of credit card expense vouchers lacking proper officer signatures to authorize the payments. The credit card expenditures also lacked detailed

explanations of the purpose of the charges. Brother Del Pino testified that the general lumping together of credit card vouchers for multiple individuals' expenses did not provide a proper explanation of the union purpose for each individual. (TR 50) He also noted that the Financial Standards Code recommends against the use of union credit cards because they bypass the requirement that at least two officers sign and approve all disbursements. (TR 50-51)

- The American Express card was also used to purchase gift cards distributed to the union and building staff. Over a three-year period, the Local purchased over \$140,000 in gift cards. The Local did not have a written gift card policy, but total gift card expenditures were annually approved by the Executive Board. Brother Del Pino testified that although the annual approval occurred, gift cards are to be treated as cash and require complete documentation from the purchase of the cards, to the inventory of the cards by serial number, to the distribution of the cards with signatures upon receipt. (TR 53) He testified that the Local's record keeping in this regard was "very loose." (TR 53-54) As a result, it was difficult to ascertain whether all gift cards were properly distributed to authorized persons. (TR 54)
- The Local incurred \$51,301.93 in car service charges from January 2020 to April 2022, with the bulk of the services provided to the President of the Local. The average cost per commute was \$288. The car service charges were not reported as taxable compensation, a serious deficiency. Other than commuting, most of the car service charges did not include any written explanation for the union purpose of

the service. Brother Del Pino testified that no written policy existed for the use of car service. (TR 57) He further testified that the lack of reporting these expenditures as taxable and on a W-2 as wages exposed the union to potential problems with the IRS. (TR 58-59)

- Local 1549 ran an operating deficit in 2021 and in 2022 the deficit was over \$300,000 from January to April. Brother Del Pino testified that the operating deficits were in his experience “very, very high” and not sustainable (TR 61)
- The Local failed to complete its annual audit for 2021 and submitted its 2020 audit late. Annual audits are required by the AFSCME Constitution. Brother Del Pino testified that failing to complete an audit or failing to perform a timely audit negatively impacts the Local’s decision-making process for expenditures as the union’s officers would not have sufficient data from which to rely upon. (TR 65)
- The Local made significant payments to consultants without signed agreements on file. Brother Del Pino testified that the invoices from these consultants indicated that they were copying and pasting their descriptions of provided services on multiple invoices. (TR 66) He also testified that the Local paid a monthly retainer to a law firm. At times extra charges would be billed by the law firm, without notes on the invoices indicating whether the extra services would ordinarily be covered under the monthly retainer. (TR 68)
- Lost time payments made to members and officers for election committee and other union activities were not reported as taxable income as required by the Financial Standards Code, exposing the Local to potential IRS penalties.

- The operating account of the Local revealed negative balances of \$30,638.18 on December 31, 2020, \$25,032.52 on December 31, 2021, and \$218,136.14 on May 10, 2022. The operating account is administered under a daily money market sweep to maximize interest income, and should have a daily balance of zero, but there were numerous outstanding, stale checks from 2019-2021 on the bank reconciliation that should have been voided to correct the register balance. Stale checks amounting to at least \$21,485.15 remained that should have been voided or reissued if necessary.
- Brother Del Pino testified that Local 1549 had a very inefficient filing system overall for maintaining supporting documentation for paid bills. (TR 73) The bills were filed by month with a copy of the check and supporting documentation but were bundled together with rubber bands by month with no numerical sequencing. (TR 73-74)
- Meeting minutes from Executive Board and Delegate meetings did not include copies of presented monthly financial reports, annual budgets, and CPA audit reports, as required by the Financial Standards Code. Financial reports were not presented at general membership meetings.

Brother Del Pino testified that to the extent the Local had recurring expenditures, they needed to be approved and reauthorized each year. (TR 197) He also testified that all of the findings in the report demonstrated a lack of an interest in maintaining proper financial controls. (TR 75)

Executive Vice President of Local 1549 Alma Roper, President of Local 1549 Edward Rodriguez, and Secretary-Treasurer of Local 1549 Felix Cooper testified in opposition to the imposition of the administratorship. Both Sister Roper and Brother Rodriguez were represented as individuals by counsel Marshall Bellovin and his associates.

Sister Roper testified that her officer duties included day-to-day operation of the Local, chairing board of delegates meetings, and presiding over all meetings and performing all duties of the President in his absence. (TR 103) Sister Roper testified to a draft rebuttal to the audit report prepared by her and an assistant to the President, which was entered into evidence as Opposing Party Exhibit 1. (TR 137-38) The draft rebuttal and her testimony did not contradict the findings in the audit report but did provide plans of action and proposed new policies going forward to address, and if necessary correct, the delineated issues. (TR 137-38) She also testified that she and the other officers were "willing to accept everything in this report and make it better" but that due to the administratorship they did not have the opportunity to present their rebuttal. (TR 159)

Upon cross examination, Sister Roper agreed that the rebuttal presented new policies to make things better as an eye to look forward, not backwards. (TR 166-67) When recalled as a rebuttal witness, Brother Del Pino testified that he did not hear or see anything in the draft rebuttal report presented by Sister Roper that would have changed any findings in his audit report. (TR 199)

Brother Rodriguez testified that the use of the car service was always for union business, for example providing masks to workers during the pandemic. He testified that

he was unaware that he needed to report the car service for tax purposes because he had never done so before or been told to do so before. (TR 173-74) He testified that he believed the decision to impose an administratorship was based on political considerations. (TR 178, 181) Brother Cooper testified that he did not have oversight responsibilities over the retirement or severance payments and that the policy had always been in place. (TR 189) He also testified that he was responsible for signing off on credit card expenditures and that the expenditures were for union purposes. (TR 190-91)

The evidence submitted by Brothers Jim Howell and William Del Pino is overwhelming and essentially uncontested. The violations of the AFSCME Financial Standards Code as revealed in the audit conducted by the International Union (IP2) show that Local 1549 violated the Financial Standards Code in multiple ways and on multiple occasions. While the draft rebuttal report presented by the Local's officers includes remedial plans of action on deficiencies, Sister Roper admitted that they were forward looking. The rebuttal report and testimony did not contradict the findings in the audit report.

The audit report revealed that Local 1549 has serious and significant deficiencies in approving officer and staff salaries. It also revealed that the Local made large payouts to a retiring officer without proper approvals and immediately after a payment cap policy was rescinded, raising concerns. The union's use of a credit card and gift cards without proper reporting, approvals and controls violated the Financial Standards Code. While testimony asserted that all car service charges were for proper union business, the lack of documentation for the expenditures and the lack of reporting the expense on annual W-

2 forms left the union open to a possible IRS audit. The same IRS concern was raised by the lack of reporting of lost time payments for tax purposes. Local 1549 has been running significant operating deficits. The audit report also outlined the lack of full documentation of payments to consultants and attorneys. Overall, the Local's bank reconciliation processes and filing system for bills and checks was at best inefficient and disorganized, and at worst a violation of the Financial Standards Code. All the deficiencies in the report, in large part uncontested by the witnesses in opposition to the administratorship, demonstrate a pervasive lack of financial controls over the assets of the union, and therefore demonstrate a present threat of the dissipation or loss of the funds or assets of the local. As such, the International President's action was justified, and he acted with complete constitutional authority by placing Local 1549 under emergency administratorship.

DECISION

It is the decision of the Administratorship Hearing Board that President Saunders acted appropriately in imposing an administratorship over AFSCME Local 1549.

October 28, 2022
Harrisburg, PA

Carla Insinga
Judicial Panel Chairperson
AFSCME, AFL-CIO