

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**INTERNATIONAL LONGSHOREMEN'S ASSOCIATION
LOCAL UNION NO. 1982, AFL-CIO**

and

Case 08-CB-206215

DEREK POLLOCK

**INTERNATIONAL LONGSHOREMEN'S ASSOCIATION
LOCAL UNION NO. 1982, AFL-CIO**

and

Case 08-CB-207497

CHAD MOODY

**INTERNATIONAL LONGSHOREMEN'S ASSOCIATION
LOCAL UNION NO. 1982, AFL-CIO**

and

Case 08-CB-209375

**MIDWEST TERMINALS OF TOLEDO INTERNATIONAL,
INC.**

**INTERNATIONAL LONGSHOREMEN'S ASSOCIATION
LOCAL UNION NO. 1982, AFL-CIO**

and

Case 08-CB-209968

RICARDO CANALES

DECISION AND ORDER

Statement of the Cases

On June 22, 2018, International Longshoremen's Association Local Union No. 1982, AFL-CIO (the Respondent); Charging Parties Derek Pollock, Chad Moody, Midwest Terminals of Toledo International, Inc., and Ricardo Canales; and the General Counsel of the National Labor Relations Board entered into a Formal Settlement Stipulation, subject to the Board's approval, providing for the entry of a consent order by the Board. The parties waived all further and other proceedings before the Board to

which they may be entitled under the National Labor Relations Act and the Board's Rules and Regulations.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Formal Settlement Stipulation is approved and made a part of the record, and the proceeding is transferred to and continued before the Board in Washington, D.C., for the entry of a Decision and Order pursuant to the provisions of the Formal Settlement Stipulation.

Based on the Formal Settlement Stipulation and the entire record, the Board makes the following

Findings of Fact

1. The Charging Party Employer's business

(a) At all material times, Midwest Terminals of Toledo International, Inc. (Charging Party Midwest), an Ohio corporation, with a place of business located in Toledo, Ohio, has been engaged in providing stevedoring services to shipping companies engaged in interstate and foreign commerce.

(b) Annually, Charging Party Midwest, in conducting its business operations described above in Paragraph 1(a), derives gross revenues in excess of \$500,000 for those services.

(c) At all material times, Charging Party Midwest has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. The labor organization involved

At all material times, International Longshoremen's Association Local Union No. 1982, AFL-CIO (the Respondent) has been a labor organization within the meaning of Section 2(5) of the Act.

3. The bargaining unit

(a) The following employees of Charging Party Midwest constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act (the unit):

Employees of the Company in stevedore and warehouse operations such as longshoremen, warehousemen, crane operators, power operators, fork-lift operators, end-loaders, material handlers, checkers, signalmen, winchmen, linemen, line dispatcher and hatch leaders.

(b) At all material times since at least January 1, 2006, the Respondent has been the designated collective-bargaining representative of the unit and at all material times since at least January 1, 2006, the Respondent has been recognized as the representative by Charging Party Midwest. This recognition has been embodied in successive collective-bargaining agreements, one of which was effective by its terms from January 1, 2006 through December 21, 2010.

(c) At all material times since around January 1, 2006, based on Section 9(a) of the Act, the Respondent has been the exclusive collective-bargaining representative of the unit.

(d) Since at least December 31, 2012, there has been no collective-bargaining agreement in effect between the Respondent and Charging Party Midwest.

(e) Since at least December 31, 2012, there has been no binding union security provision requiring the employees in the unit to become members and/or maintain membership with the Respondent as a condition of continued employment with Charging Party Midwest.

(f) At all material times since about April 1, 2017, the Employer and the Respondent have maintained a practice requiring that the Respondent be the exclusive source of referrals of employees for line work with the Employer.

ORDER

Based on the above findings of fact, the Formal Settlement Stipulation, and the entire record, and pursuant to Section 10(c) of the National Labor Relations Act, the National Labor Relations Board orders that:

The Respondent, International Longshoremen's Association Local Union No. 1982, AFL-CIO, Toledo, Ohio, its officers, agents, and representatives, shall:

1. Cease and desist from:

(a) Restraining or coercing employees of Midwest Terminals of Toledo International, Inc. in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, as amended, by failing to refer them for line work because they are not members in good standing of the Union, they filed charges with the Board, they are perceived as anti-union, or for other arbitrary and/or discriminatory reasons.

(b) Causing or attempting to cause Midwest Terminals of Toledo International, Inc. to discriminate against any employees in regard to their hire or tenure of employment, or any term or condition of employment, in violation of Section 8(a)(3) of the Act, as amended, by failing to refer bargaining unit employees for line work because they are not members in good standing of the Union, they filed charges with the Board, they are perceived as anti-union, or for other arbitrary and/or discriminatory reasons.

(c) In any other manner, restraining and coercing employees in the exercise of their Section 7 rights under the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Make whole the following employees for the loss of pay suffered by reason of the discrimination against them, by payment to them of the amounts set forth opposite their respective names, in two separate checks to each employee designated for (1) backpay and for (2) pension, interest, and excess tax, and at the time set forth in the schedule that follows. All checks should be mailed to NLRB, Region 8, 1240 East 9th Street, Suite 1695, Cleveland, Ohio 44199. If any installment is not paid on or before the date due, the full unpaid amount shall become immediately due and payable and the Board may, without further notice, institute proceedings against the Respondent for the collection of the full indebtedness remaining due, with additional interest due on the entire unpaid balance from the date of default until full payment is received, computed in accordance with the formula set forth in *New Horizons*, 283 NLRB 1173 (1987).

Name	Amount due and date of payment				Total Amount
	30 days from Board Order	Three months from first payment	Three months from second payment	Three months from third payment	
Randy Baumert	\$225.90- (Backpay) \$49.90- (pension, interest and excess tax)	\$225.90- (Backpay) \$49.90- (pension, interest and excess tax)	\$225.90- (Backpay) \$49.90- (pension, interest and excess tax)	\$225.90- (Backpay) \$49.90- (pension, interest and excess tax)	\$1103.20
Ricardo Canales	\$110.32- (Backpay) \$26.02- (pension, interest and excess tax)	\$110.32- (Backpay) \$26.02- (pension, interest and excess tax)	\$110.32- (Backpay) \$26.02- (pension, interest and excess tax)	\$110.32- (Backpay) \$26.02- (pension, interest and excess tax)	\$545.36
Joseph Duslak	\$225.90- (Backpay) \$49.90- (pension, interest and excess tax)	\$225.90- (Backpay) \$49.90- (pension, interest and excess tax)	\$225.90- (Backpay) \$49.90- (pension, interest and excess tax)	\$225.90- (Backpay) \$49.90- (pension, interest and excess tax)	\$1103.20

Raymond Krais	\$225.90- (Backpay) \$49.90- (pension, interest and excess tax)	\$225.90- (Backpay) \$49.90- (pension, interest and excess tax)	\$225.90- (Backpay) \$49.90- (pension, interest and excess tax)	\$225.90- (Backpay) \$49.90- (pension, interest and excess tax)	\$1103.20
Chad Moody	\$184.10- (Backpay) \$39.15- (pension, interest, and excess tax)	\$184.10- (Backpay) \$39.15- (pension, interest, and excess tax)	\$184.10- (Backpay) \$39.15- (pension, interest, and excess tax)	\$184.10- (Backpay) \$39.15- (pension, interest, and excess tax)	\$893
Derek Pollock	\$174.25 (Backpay) \$38.75 (pension, interest, and excess tax)	\$174.25 (Backpay) \$38.75 (pension, interest, and excess tax)	\$174.25 (Backpay) \$38.75 (pension, interest, and excess tax)	\$174.25 (Backpay) \$38.75 (pension, interest, and excess tax)	\$852
Total Due:					\$5599.96

(b) In addition, the Respondent is responsible for paying accumulating interest through the installment period, which will be computed by the Compliance Officer of Region 8 based on the applicable Board's interest rate. The Respondent agrees to pay interest compounded on a daily basis on all outstanding balances which will begin accruing on May 1, 2018. Interest will be payable at the time the Respondent makes its quarterly installment payments according to the above Installment Schedule.

(c) Within 14 days of service by the Region, post copies of the attached notice marked as Appendix A at its union hall at 2300 Ashland Avenue, Suite 225, Toledo, OH 43620 location. Copies of the notice, on forms provided by the Region, after being signed by the Respondent's authorized representatives, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where the Respondent normally posts notices to employees and members. The Respondent will take reasonable steps to ensure that the notices are not altered, defaced, or covered by any other material.

(d) Within 14 days of service by the Region, the Respondent's authorized representative will sign and mail sufficient copies of said notices to the Regional Director for Region 8, for posting by Midwest Terminals of Toledo International, Inc. at all locations where notices to employees are customarily posted, if said Employer is willing to do so.

(e) Within 21 days after service by the Region, file with the Regional Director for

Region 8 a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., December 18, 2018.

John F. Ring, Chairman

Lauren McFerran, Member

William J. Emanuel, Member

(SEAL)

NATIONAL LABOR RELATIONS BOARD

APPENDIX A

NOTICE TO MEMBERS POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD An Agency of the United States Government

PURSUANT TO A STIPULATION PROVIDING FOR A BOARD ORDER

FEDERAL LAW GIVES YOU THE RIGHT TO:

Form, join, or assist a union;
Choose a representative to bargain with your employer on your behalf;
Act together with other employees for your benefit and protection;
Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

WE WILL NOT refuse to refer you for line work because you are not a member in good standing of International Longshoremen's Association, Local Union No. 1982, AFL-CIO (Union), or because we perceive you as anti-union, or for other arbitrary and/or discriminatory reasons.

WE WILL NOT refuse to refer you for line work because you filed charges with the National Labor Relations Board.

WE WILL NOT cause or attempt to cause Midwest Terminals of Toledo International, Inc. to deny line work to Randy Baumert, Ricardo Canales, Joseph Duslak, Raymond Kreais, Chad Moody, Derek Pollock or any other employee, because they are not members in good standing of the Union, are perceived as anti-union, or for other arbitrary and/or discriminatory reasons.

WE WILL NOT cause or attempt to cause Midwest Terminals of Toledo International, Inc. to deny line work to Randy Baumert, Joseph Duslak, Raymond Kreais, Chad Moody, Derek Pollock or any other employee, because they filed charges with the National Labor Relations Board.

WE WILL NOT, in any other manner, restrain or coerce you in the exercise of your rights under Section 7 of the Act.

WE WILL make Randy Baumert, Ricardo Canales, Joseph Duslak, Raymond Kreais, Chad Moody, and Derek Pollock whole for losses suffered because we failed to refer them for line work.

**INTERNATIONAL LONGSHOREMEN'S
ASSOCIATION, LOCAL UNION NO. 1982, AFL-CIO**

The Board's decision can be found at www.nlr.gov/case/08-CB-206215 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half St., S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

