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April 5, 2024

JUDICIAL PANEL CASE NO. 24-015
DC 37 Retiree Chapter 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
Henry Garrido, Executive Director, AFSCME District Council 37
Executive Staff
Teague Paterson, General Counsel
James Howell, Eastern Regional Director, Organizing & Field Services
Ryan Welles, AFSD
Ann Widger, Administrator
Terri Brady, Deputy Administrator
Robert Gervasi
Jose Sierra
John Hardisty
Bruce Heigh
Lesly Williams
Neal Frumkin
Donald Afflick
Mel Fox
Dominick Martino

Cynthia Cox
Sallie Robertson
Pilar Oquendo
Anna Berry
Nellie Gonzalez Arce
Aurea Mangual
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Carmen Colon
Isabel Figueroa
Petrona Graham
Rhonna Bonsu
Caryle-Linda Rosenblatt
Myrna Cabranes
John Henry Lewis

JUDICIAL PANEL CASE NO. 24-015
District Council 37 Retirees Chapter Administratorship

On February 22, 2024, President Lee Saunders notified the Chairperson of the AFSCME Judicial Panel that he placed the Retirees Association of District Council 37, Chapter 37, AFSCME, AFL-CIO (“DC 37 Retirees Association” or “Retirees Association”), under administratorship pursuant to Article IX, Section 37 of the International Constitution. DC 37 Retirees Association’s members include retired New York City workers and their spouses who while working fell under the jurisdiction of AFSCME District Council 37 or AFSCME District Council 1707.

AFSCME Retirees Department Director Ann Widger was appointed to serve as administrator of the DC 37 Retirees Association, and AFSCME Retiree Field Coordinator Terri Brady was appointed to serve as Deputy Administrator of the DC 37 Retirees Association. The officers and executive board members of the DC 37 Retirees Association 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 The Retirees Association of District Council 37, Chapter 37, AFSCME, AFL-CIO, in that dissipation or loss of the funds or assets is threatened and the chapter is acting in violation of the International Constitution. Therefore, in accordance with Article IX, Section 37 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 March 14,

2024, via Zoom video-conference. 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

Sister Ann Widger, appointed Administrator of DC 37 Retirees Association and AFSCME Retirees Department Director for the entire country, including New York, testified that DC 37 Retirees Association represents retirees that worked within a variety of New York City departments and with a variety of roles including in sanitation, parks, crossing guards, social services and many more. (TR 21). The Retirees Association has approximately 26,000 members. (TR 21).

Sister Widger testified that in January of 2024, she became aware of financial issues or problems within the DC 37 Retirees Association. (TR 23). Specifically, she was informed that the Internal Revenue Service ("IRS") had revoked the not-for-profit tax-exempt status of the Retirees Association for failure to file annual, required IRS Form 990 since 2017. (TR 23). Upon following up on this information, Sister Widger learned that required, annual audits had also not been conducted. (TR 23). The DC 37 Retirees Association constitution (Hearing Board Exhibit 4) required annual audits. (TR 56-57).

Sister Widger testified that she held regular, monthly calls with the President and Vice-President of the Retirees Association, and that after conversations with leadership of the Retirees Association throughout January and February no progress had been made to correct the issues, and she feared that without the administratorship the assets of the

organization were at risk. (TR 24, 26-27). She made President Saunders aware of these concerns in a memo dated February 12, 2024. (International President Exhibit 2).

Alarming,ly, Sister Widger testified that over an eighteen-month period of regular monthly calls, no one from the leadership of the Retirees Association mentioned the backlog of missing Form 990 filings or the lack of regular audits. (TR 28). She did not learn of the problem until January 2024, when the Retiree Association's President forwarded her an email from a different New York Retirees organization (The New York City Organization of Public Service Retirees, which is not affiliated with AFSCME) that included a copy of the notice from the IRS revoking DC 37 Retiree Association's not-for-profit tax-exempt status. (International President Exhibit 3).

Upon receiving this email, and after verifying the accuracy of the tax status on the IRS website, Sister Widger replied to the email stating that the problem needed to be fixed immediately. (TR 40, International President Exhibit 4). She then raised the issue on a telephone call with the Retiree Association President and Vice President the following day, January 9, 2024. (TR 41). Later that day she also spoke with the Retiree Association's Secretary-Treasurer by telephone. On that call the Secretary-Treasurer indicated he was aware of the lack of 990 filings since 2017 and he also alerted Sister Widger to the lack of audits since 2017. (TR 41). Sister Widger then contacted the Retiree Association's accountant Peter DeCarlo. (TR 45). DeCarlo informed her that he had not been in contact with the Retiree Association's Treasurer in some time but that both were aware of the IRS revocation and audit delinquency. (TR 46).

The DC 37 Retirees Association also held an Executive Board meeting in January. (TR 47). While the IRS and audit issue was briefly discussed, the meeting mostly focused on whether to make donations to the New York City Organization of Public Service Retirees in support of their ongoing litigation against the City of New York concerning retiree health care plans. (TR 47, International President Exhibit 5). Executive Board meeting minutes from previous months also revealed cursory discussion of the 990 and audit delinquencies but no plan of action to resolve the issue. (TR 48). These meeting minutes in addition to a letter from the Secretary-Treasurer to the Retirees Association accountant referencing the IRS and audits, demonstrated that the leadership of the Retirees Association knew about this problem since at least 2020, but had not acted to remedy the issue. (TR 54, International President Exhibit 6).

Sister Widger testified that she then participated in the regular monthly call with the Retiree Association leadership on or about February 6, 2024. (TR 55). On that call she again raised the IRS filings and audits and discovered no progress had been made and she stated she could detect no sense of urgency from the officers about the issue. (TR 56). No one from the Retirees Association asked for assistance from her or her department or provided any status update showing the issues were being addressed. (TR 67-68).

Sister Widger testified that her conversations with the Secretary-Treasurer and others on the Executive Board instead left her more concerned. She stated that the current Treasurer was interested in retiring from the role and struggled to keep up with the day-to-day functions of the office. (TR 27). She was concerned that the officers were not living up to their constitutionally required duties in managing the financial affairs of the

chapter. (TR 58-61). These concerns were rooted in the knowledge that IRS revocation of tax-exempt status can lead to the Retirees Association being taxed at high corporate rates and left open to the possibility of IRS audits. (TR 68). Given that the Retirees Association is funded by its annual dues income of a little under \$1 million annually, the financial consequences could be dire. (TR 69).

Sister Widger in her duties as Administrator also testified to other discoveries of serious financial mishandlings. She discovered the Retirees Association was actively using a credit card in a former officer's name. (TR 69). She also came across a dormant bank account with over \$100,000 in it with authorized signatories either long since retired from office or deceased. (TR 70).

Sister Widger testified that although the AFSCME International Union provides regular secretary-treasurer trainings, monthly meetings with retiree chapter officers, and regular filing reminders, the ultimate responsibility to make required filings and audits is held by the officers of the individual chapters. (TR 63-64). However, given what she learned from her conversations with the DC 37 Retirees Association officers, accountant, and her review of their records, Sister Widger testified that currently the Retirees Association cannot meet its obligations without substantial intervention from the AFSCME International Union. (TR 69).

Several officers and other retiree members spoke in opposition to the imposition of an administratorship. These members raised various explanations for the Form 990 and audit delinquencies. Some of the officers indicated that they provided all available financial documents to the accountant, but that the accountant did not otherwise follow

up or perform his duties. The officers also indicated that the Retirees Association was understaffed and under-resourced and that they did the best they could under the circumstances, especially given the challenges presented by the COVID-19 pandemic. Others objected on the grounds that the AFSCME International Union had not alerted them to any problems until January of this year or offered assistance. Some members noted that other AFSCME affiliates have had similar financial failings but have not been put under administratorship. Several members also testified alleging that the AFSCME International Union was imposing an administratorship not due to financial issues but in retaliation for the leadership of the Retirees Association's decision to provide financial support to The New York City Organization of Public Service Retirees litigation efforts.

DECISION

It is the decision of the Administratorship Hearing Board that President Saunders acted appropriately in imposing an administratorship over AFSCME DC 37 Retirees Association. Based upon the testimony the Retirees Association leadership and staff do not have the capacity or apparently the will to appropriately safeguard the assets of the organization. The revocation of the Retiree Association's tax-exempt status has placed the funds and assets of the organization at great risk. The officers of the DC 37 Retirees Association knew or should have known about the threat to the organization's tax-exempt status and the lack of compliance with audit requirements since at least 2020 and have not acted to remedy the issues. The testimony demonstrates that when alerted to the urgency of the problem by Administrator Widger in January and February of 2024, leadership continued to fail to act.

The various explanations for the lack of urgency to address the IRS and audit issues and the reasons stated in opposition to an administratorship are not sufficient. The ultimate responsibility for overseeing the Retiree Association's fiscal and business affairs is with the Executive Board and officers of the Chapter, not the outside accountant or the International Union. If the Retirees Association did not have the ability, staff, or resources to meet its obligations, it had the responsibility to ask for help, which it did not do. Moreover, whether other affiliates with similar issues have or have not been placed under administratorship is irrelevant to the question of whether an administratorship is appropriate in this case. Finally, the witness for the AFSCME International President testified credibly that the decision to request an administratorship was made solely based on the concerns raised in International President Exhibit 2.

For the foregoing reasons, the administratorship is upheld.

April 5, 2024
Harrisburg, PA

Carla Insinga
Judicial Panel Chairperson
AFSCME, AFL-CIO