



**ALAN A. ROBB**

President

August 16, 2023

Mr. Leonard Bailey  
District Vice President  
Charleston, SC

*via email only [lbailey1422a@yahoo.com](mailto:lbailey1422a@yahoo.com)*

Mr. Paul Mosley  
District Vice President  
Savannah, GA

*via email only [paulmosley1414@gmail.com](mailto:paulmosley1414@gmail.com)*

Mr. Richard Nixon  
District Representative  
Savannah, GA

*via email only [richard@iladistrict.com](mailto:richard@iladistrict.com)*

Re: ILA Local 1408 Re-Run Election

Gentlemen,

I am appointing you to oversee the re-run of the election for ILA Local 1408. The election shall be held on Monday, September 18 from 7am to 7 pm at the local union hall. The election for the positions of President and Vice-President only shall be re-run. For your information, attached is a copy of the decision from the International ordering the re-run election.

By copying this letter, I am advising all necessary parties of your appointment. If you have any questions, please feel free to contact me.

Fraternally,

Alan A. Robb  
President

AAR:ps

August 16, 2023

Page -2-

cc: Mr. Harold Daggett, President, ILA  
Mr. Stephen Knott, Sec. Treas., ILA  
Mr. Dennis Daggett, Exe. Vice President, ILA  
Mr. Bill Williams, Sec. Treas. ILA, SAGCD  
Mr. Willie Seymore, Exe. Vice Pres., ILA, SAGCD  
Mr. Wilbert Rowell, Asst. Sec. Treas., ILA, SAGCD  
Mr. Warren Smith, President  
Mr. Fred Wakefield, Vice President  
Mr. Vincent Cameron, Int'l Vice President  
Mr. Keith Hopkins  
Andre Mazzola Mardon, P.C.  
Noel Lawrence, Esq.  
Laurence Goodman, Esq.  
Local 1408 Executive Board

# INTERNATIONAL LONGSHOREMEN'S ASSOCIATION

## In the Matter of

**WARREN SMITH AND FRED  
WAKEFIELD APPEALS OF SOUTH  
ATLANTIC AND GULF COAST DISTRICT  
DECISION ON ELECTION PROTESTS OF  
KENNETH THOMAS, KEITH HOPKINS,  
AND VINCENT CAMERON**

## REPORT AND RECOMMENDATIONS OF HEARING COMMITTEE

### INTRODUCTION

By letter dated March 31, 2023 to ILA Secretary-Treasurer Stephen Knott, Warren Smith appealed the decision of the South Atlantic and Gulf Coast District (SA&GCD) as to the election protests of Kenneth Thomas, Keith Hopkins, and Vincent Cameron. By letter dated April 2, 2023 to Secretary-Treasurer Knott, Fred Wakefield appealed the SA&GCD decision as to the election protest of Keith Hopkins. On April 24, 2023, President Harold Daggett appointed ILA Vice-President Thomas Little as Committee Chairman and ILA Vice-President Scott Cowan as Committee member to consider the appeals. On May 1, 2023, Secretary-Treasurer Stephen Knott informed Brother Smith, Brother Wakefield, Brother Thomas, Brother Hopkins, and Brother Cameron that a hearing would be held on May 11, 2023 at 8:30 a.m. at the South Atlantic ILA/Employers District Escrow Fund Office, located at 1336 Haines Street, Jacksonville, Florida to consider the appeals.

On May 4, 2023, Brother Smith informed Secretary-Treasurer Knott that he would be traveling on May 11, 2023 and would be unable to attend the hearing and requested that the

hearing be rescheduled. By letter dated May 8, 2023, Secretary-Treasurer Knott informed all parties that the hearing would be rescheduled. By letter dated May 24, 2023, Secretary-Treasurer Knott informed the parties that the hearing would be rescheduled for June 27, 2023 at 8:30 a.m. at the South Atlantic ILA/Employers District Escrow Fund Office.

### **SOUTH ATLANTIC & GULF COAST DISTRICT'S DECISION**

The SA&GCD found that Brother Thomas, Brother Hopkins, and Brother Cameron had all been improperly declared ineligible to be candidates for office. Based on this finding, the SA&GCD ordered that Local 1408 re-run the election for President and Vice-President.

### **ILA COMMITTEE HEARING**

The hearing took place on June 27, 2023 as scheduled. In attendance were Warren Smith, Local 1408 President, Fred Wakefield, Local 1408 Vice-President, Jann Clark, Local 1408 Financial Secretary, Carl King, Election Committee Chairman, Martha Johnson, Election Committee Member, Executive Board Members Anthony Roundtree and Darryl Alston, Carl Hilliard, Nathaniel Gardner, Kenneth Thomas, Sr., Keith Hopkins, and Vincent Cameron. Also present was Lesley Mardon of Mazzola Mardon, P.C. who served as counsel to the Committee.

All parties present had a full and fair opportunity to present evidence in support of their positions.

#### **1. Warren Smith's Appeal of SA&GCD Decision Regarding Kenneth Thomas, Sr.'s Election Protest**

### **PARTIES' POSITIONS**

#### **President Smith's Position**

During the hearing, President Smith explained that the Election Committee had declared Brother Thomas to be ineligible to be a candidate for office because he failed to pay timely the 10% International dues and the 5% local service fee owed on past container royalty payments.

President Smith submitted a copy of the SA&GCD hearing transcript to demonstrate that Brother Thomas had stated that the delinquent amounts were for container royalty payments that he received in 2017, 2018, and 2019.

President Smith argued that, although Brother Thomas stated in his election protest that he was unable to pay the local service fee on his container royalty payments because Local 1408's office was closed during the pandemic, in fact the office was not closed and still conducted business during that time. In support of his position that the local's office was open and accepting payments, President Smith submitted receipts of other Local 1408 members who made payments during that time. President Smith explained that Local 1408's bylaws require candidates to have paid all owed 10% International dues and 5% local service fees on container royalty payments, 9/10 of 1% International dues on vacation and holiday payments, and \$20 per year in local dues for two years prior to the nomination to be eligible to be a candidate for office.

President Smith explained that, because Brother Thomas did not have a check-off authorization in effect, he was required to remit the service fee himself to the local. He stated that Brother Thomas paid the owed 5% local service fee on November 19, 2020, which was twelve days after the deadline to be considered a member in good standing for two years prior to his nomination. Therefore, he was ineligible to be a candidate for office. President Smith stated that, although members who do not have check-off authorizations in effect usually pay the owed amounts in person, Local 1408 also accepts payments by mail. Therefore, Brother Thomas could have mailed a check or money order to the local to satisfy the debt.

### **Brother Thomas's Position**

Brother Thomas admitted that he paid the owed local service fee on November 19, 2020, which was twelve days after the November 7, 2020 due date. However, he argued that his

lateness should be excused because Local 1408's office was closed during the pandemic and he was unable to remit the payment timely due to the closure.

Brother Thomas informed the Committee that, although he previously did not have a check-off authorization in effect and paid the owed amounts out-of-pocket, he has since signed a check-off authorization. In support of his statement, Brother Thomas submitted a copy of the check stub for the container royalty payment he received on December 2, 2020, which shows a deduction for local service fee. Brother Thomas agreed with President Smith's statement that the local accepts payments by mail and that there were other methods for Brother Thomas to remit payment other than in person.

Although Brother Thomas admitted that a member in good standing is one who has fulfilled all financial obligations to the local, Brother Thomas argued that the 5% service fee on container royalty payments is not dues and therefore a member is still a member in good standing even if he or she does not pay this amount. He argued further that, because the 5% service fee is not dues, the two-year period of good standing for candidate eligibility does not include payment of that amount. According to Brother Thomas, to be a member in good standing, a member must pay only the \$20 per year local out-of-pocket dues. He claimed that, because he has not been delinquent in paying that amount, he was in good standing for two years prior to his nomination and therefore should have been eligible to be a candidate for office.

Brother Thomas also stated that he had never been ineligible to receive a turkey that Local 1408 gives to members at Thanksgiving and never received any written notification that he was delinquent in any payments to the local which, according to Brother Thomas, indicate that he was a member in good standing.

Brother Thomas refuted President Smith's allegation that Brother Thomas had not paid the 10% International dues on his container royalty payments by submitting check stubs for checks received in 2016, 2017, and 2020, that indicated that the 10% International dues were automatically deducted from his container royalty check.

### DISCUSSION

According to the transcript of the SA&GCD hearing, Brother Thomas stated that the delinquent service fees were for container royalty payments that he received in 2017, 2018, 2019. During the hearing before this Committee, Brother Thomas provided no excuse for paying the delinquent service fees other than that the office was closed due to the pandemic. It is widely known that the COVID-19 pandemic did not affect the United States and cause significant shutdowns until March 2020. Brother Thomas presented this Committee with no explanation for waiting three years to pay the service fee owed on a container royalty check that he received in 2017. In addition, President Smith stated, and Brother Thomas agreed, that Local 1408 permits members to remit payment by mail. Therefore, Brother Thomas could have mailed his payment to the local if he truly was unable to remit payment in person in 2020 due to the pandemic.

This Committee also finds unpersuasive Brother Thomas's argument that the 5% service fee on container royalty payments is not dues and is therefore not required to be paid to be considered a member in good standing. Article XIV, Section 1 of the ILA Constitution states that a member in good standing is "any person who has fulfilled the requirements for membership in such organization, and who neither has voluntarily withdrawn from membership nor has been expelled or suspended from membership in accordance with the provisions of this Constitution and the applicable local by-laws." Article XVI, Section 5 of Local 1408's bylaws states: "Any member who derives employment via the Local's hiring hall shall incur a charge to the local, for

the services so provided, of 5 percent of his gross earnings inclusive of royalty, vacation and holiday payments.” Article XIV, Section 5 of the ILA Constitution states “Any member who is thirty (30) days or more in arrears in the payment of dues shall be automatically, and without notice, suspended from all rights and privileges of membership.” According to Local 1408’s bylaws, the 5 percent owed to the local on his container royalty payment is considered to be a financial obligation to Local 1408 and therefore is required for Brother Thomas to be considered a member in good standing.

Moreover, this Committee finds unpersuasive Brother Thomas’s argument that the fact that Local 1408 gave him a turkey at Thanksgiving and provided no notification of his delinquency as evidence that he was a member in good standing. Although many local unions customarily give members turkeys at Thanksgiving time, this Committee is unaware of any Local 1408 rules or policies that require a member to be in good standing to receive such turkey. More importantly, Article XIV, Section 5 of the ILA Constitution states “Any member who is thirty (30) days or more in arrears in the payment of dues shall be automatically, and without notice, suspended from all rights and privileges of membership.” Therefore, the ILA Constitution did not require Local 1408 to notify Brother Thomas that he was suspended for the failure to pay his financial obligations and only requires notice if the local expels a member. None of the parties at the hearing claimed that Brother Thomas had been expelled. Therefore, the fact that Local 1408 did not notify Brother Thomas that he had been suspended does not support an assumption that Brother Thomas was in good standing.

For the foregoing reasons, this Committee finds that Brother Thomas was not a member in good standing of Local 1408 for two years prior to his nomination and therefore Local 1408’s Election Committee properly declared him to be ineligible to run for office.



**2. Warren Smith's and Fred Wakefield's Appeals of SA&GCD Decision Regarding Keith Hopkins's Election Protest**

**PARTIES' POSITIONS**

**President Smith's Position**

In his appeal, President Smith stated that the Election Committee had declared Brother Hopkins to be ineligible to run for union office because he had pled *nolo contendere* to a barrable offense under Section 504 of the Labor-Management Reporting and Disclosure Act (LMRDA). He explained that the matter was referred to Local 1408's legal counsel, who confirmed that the Election Committee had properly determined Brother Hopkins to be ineligible to run for office. During the hearing, President Smith submitted no additional arguments and admitted that he is more concerned about the outcome of the Presidential race rather than the Vice Presidential race.

**Vice President Wakefield's Position**

Vice President Wakefield argued that Brother Hopkins was properly declared ineligible to be a candidate for office because Brother Hopkins had pled *nolo contendere* to battery. Vice President Wakefield stated that Section 504 of the LMRDA prohibits a person who has been convicted of "assault which inflicts grievous bodily injury" from holding union office and argued that Brother Hopkins's crime meets that definition. In support of his position, he submitted a Petition for Injunction for Protection Against Domestic Violence, a Jacksonville Sheriff's Office Incident Report, and a Motion to Amend Temporary Injunction. He argued that all of the information contained in the submitted documents support the contention that the crime involved "grievous bodily injury." He also argued that Local 1408's lawyers advised the Election Committee regarding the issue and made the ultimate determination regarding whether Brother Hopkins should be declared ineligible to run for office. In support of his statement, Vice

President Wakefield submitted an email from Local 1408's attorney that provided a legal analysis of the matter.

Vice President Wakefield also presented as a witness, Election Committee Chairman King, who confirmed that the Election Committee made the ineligibility determination based upon advice from Local 1408's attorneys. He also explained that the Election Committee performed its own research. In support of his position, he submitted a copy of the Florida statute containing the crime to which Brother Hopkins pled *nolo contendere* and the dictionary definition of "grievous."

### **Brother Hopkins's Position**

Brother Hopkins argued that he should not have been declared ineligible due to Section 504 of the LMRDA because he was not convicted of a crime specified in the statute and the crime to which he pled *nolo contendere* is a misdemeanor, not a felony. He stated that he pled guilty to domestic battery and the judge withheld adjudication. In support of his position, he submitted the charge sheet and the police report from his arrest.

Brother Hopkins argued that a misdemeanor does not preclude him from holding office under Section 504 of the LMRDA. In support of his position, he quoted the DOL Office of Labor-Management Standards Fact Sheet entitled "Prohibition Against Certain Persons Holding Union Officer or Employment." In response to the question "Is there a difference between a felony conviction and a misdemeanor conviction for purposes of the bar?", the fact sheet states in relevant part "No... anyone convicted of any of the crimes described in Section 504 is barred, regardless of whether the crime is classified as a felony or misdemeanor."

In response to Vice President Wakefield's arguments, Brother Hopkins stated that he had never seen any of the documents from which Vice President Wakefield read and stated that none

of the documents were presented in court. He also stated that he never appeared before a judge during his case and never heard the information contained in the petition for injunction.

### DISCUSSION

Section 504 of the LMRDA prohibits a person from serving as a union officer if he or she has been convicted of or served any part of a prison term resulting from his conviction of “robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, assault with intent to kill, assault which inflicts grievous bodily injury...for a period of thirteen years after the conviction or after the end of imprisonment, whichever is later. 29 U.S.C. §504. Despite Brother Hopkins’s contention that the passage he quoted from the DOL’s publication supports his position that a misdemeanor does not preclude him from holding union office, in fact, the DOL’s guidance directly conflicts with Brother Hopkins’s argument. The quoted language indicates that, if an individual has been convicted of an offense specified in Section 504 of the LMRDA, it is irrelevant whether the crime is a misdemeanor or a felony. Therefore, whether the crime to which Brother Hopkins pled is a misdemeanor or felony is immaterial to the analysis.

The threshold issue is whether Brother Hopkins was convicted of an offense contained in LMRDA Section 504. The crime to which Brother Hopkins pled *nolo contendere* is “battery.” The statute states that “The offense of battery occurs when a person: 1. Actually and intentionally touches or strikes another person against the will of the other; or 2. Intentionally causes bodily harm to another person.” Fla. Stat. § 784.03 (1)(a). Federal courts “have uniformly held that the list of common law crimes [in the LMRDA] includes convictions under statutes that *substantially* cover the conduct listed in the disqualification statute, regardless of the precise statutory language.” *Roofers Local 33 v. Meese*, 823 F.2d 652, 655 (1<sup>st</sup> Cir. 1987). Although the

crime to which Brother Hopkins pled *nolo contendere* includes “bodily harm,” it does not specify that the harm is severe. On the contrary, the crime of aggravated battery, which a person commits when, while committing battery, he or she “1. intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; or 2. uses a deadly weapon.” Fla. Stat. § 784.045.

Because the crime of aggravated battery specifies “great bodily harm,” this Committee believes that aggravated battery would substantially cover the crime of assault which inflicts grievous bodily injury. However, this Committee believes that the crime of battery, to which Brother Hopkins pled *nolo contendere* is not functionally equivalent to “assault which inflicts grievous bodily injury” and therefore does not substantially cover the conduct listed in Section 504. Accordingly, this Committee finds that Brother Hopkins was not convicted of an offense that would bar him from running for office under Section 504 of the LMRDA and therefore the Election Committee improperly declared him ineligible to run for union office.

### **3. Warren Smith’s Appeal of SA&GCD Decision Regarding Vincent Cameron’s Election Protest**

#### **PARTIES’ POSITIONS**

##### **President Smith’s Position**

President Smith stated that Brother Cameron was determined to be not in good standing and therefore ineligible to be a candidate for office in the December 2022 election because Local 1408 has no evidence that Brother Cameron paid the 5% local service fee on container royalty payments that Brother Cameron received in December 2014 and March 2015.

President Smith explained that Local 1408 maintains a computer system to track which members made payments to the local. He explained that, if a payment is not in the system, a member must produce a receipt to prove that he paid the owed sum. According to President

Smith, Local 1408's computer system has no record of Brother Cameron's payment and Brother Cameron was unable to produce a receipt to demonstrate that he had paid the owed amount. To support his position, President Smith presented copies of members' payment receipts, including receipts of Brother Cameron's prior payments, and the corresponding records from the local's computer system. He explained that, if an individual has a check-off authorization in effect, the service fee is deducted from the member's container royalty check and remitted to the local. Otherwise, the individual must remit payment to Local 1408's Financial Secretary. Vice President Wakefield informed the Committee that the JMA-ILA Container Royalty Fund (Container Royalty Fund) office provides the local with a list of members who did not pay the local service fee from their container royalty payments and the local's Financial Secretary is supposed to input this information into Local 1408's system to keep a record of which members did not pay.

President Smith explained that Brother Cameron was permitted to vote in the December 2022 officer election even though he was not permitted to be a candidate because Local 1408's standard for being eligible to vote requires members to pay 10% International dues on container royalty payments, 9/10 of 1% International dues on vacation and holiday payments, and \$20 out-of-pocket dues to Local 1408 but does not require members to pay 5% local service fee on container royalty payments to be eligible to vote. According to President Smith, in addition to the other amounts, a member must also pay the 5% local service fee on container royalty payments to be eligible to be a candidate for office. In support of his position, he provided a copy of the Election and Campaign Rules that Local 1408 provided to all nominees.

President Smith stated that the DOL supervised Local 1408's elections in 2014 and 2019 and admitted that Brother Cameron was permitted to be a candidate in the 2014, 2017, and 2019

elections. President Smith argued that Brother Cameron was improperly permitted to run in prior elections because prior election committees did not perform their functions correctly and failed to investigate properly whether Brother Cameron had paid his financial obligations to the local.

### **Brother Cameron's Position**

In response to President Smith's allegation that Brother Cameron did not pay the service fee on container royalty payments that he received in December 2014 and March 2015, Brother Cameron stated that he had paid the owed amount in April 2015. In support of his position, Brother Cameron submitted a money order receipt dated April 6, 2015.

In response to President Smith's statement that Local 1408 maintains electronic records of all member payments, Financial Secretary Clark testified that the prior Financial Secretary, who was in office from 2014 to 2017, trained her to perform her duties and did not log the payment of service fee on container royalty payments into Local 1408's computer system. She stated that she followed this method and, although she provided members with receipts, she did not begin to record in the computer system payments of the service fee on container royalty payments until recently. She explained that the Container Royalty Fund does not provide her with a list of those members from whose container royalty check the service fee was deducted and only provides a list of members from whose checks the service fee was not deducted. According to Financial Secretary Clark, this list is maintained separately and the information is not entered into Local 1408's computer system. She testified that, during her time as Financial Secretary, she never saw Brother Cameron's name on the list of members who were delinquent.

She also testified that, in 2020, Local 1408's then-President, George Spencer, informed her that the list of members who owed money would no longer be valid and all delinquencies had been forgiven. She explained that when she called the Container Royalty Fund to ask for the list

of individuals who had not paid the service fee on their container royalty payments, the Fund informed her that the list does not exist. Brother Cameron argued that, if all delinquencies were forgiven in 2020, any alleged delinquencies that he had should have been included in the forgiveness.

Brother Cameron also argued that the local has been inconsistent in its determinations. According to Brother Cameron, although he was not permitted to be a candidate or an observer in the 2022 election because the local claimed that he was not a member in good standing, he was permitted to vote in the election and did not make any additional payments to the local to be able to vote. He also noted that, in 2022, he was permitted to be a candidate in the elections for SA&GCD Convention delegate and Wage Scale Committee delegate but was not permitted to be a candidate in the local union officer election, which has the same standards. He agreed with President Smith's statement that the DOL supervised the 2014 and 2019 elections and informed the Committee that he was permitted to run in the 2014, 2017, and 2019 officer elections and was determined to be a member in good standing in all of those elections. Brother Cameron stated that, contrary to President Smith's claim that the prior election committees did not perform their functions properly, the prior election committees did perform their due diligence to determine any outstanding amounts for local service fee, International dues on container royalty payments, International dues on wages, and local dues. He testified that, until he received the ineligibility notice in November 2022, the local never informed him of any delinquency that would cause him to be not in good standing and therefore ineligible to run for office.

Brother Cameron argued that, even though President Smith alleges that Brother Cameron owes money to Local 1408, Local 1408 never informed him of the alleged amount owed and President Smith is unable to articulate the amount.

## DISCUSSION

This Committee is very concerned about much of the information presented during the hearing. Most importantly, there appears to be a disagreement among the President, Vice President, and Financial Secretary about the local's recordkeeping practices and what information is recorded in the local's computer system. This is a very serious matter because it calls into question the integrity of Local 1408's records, which has an impact on not only local elections but also on the security of the local's finances.

One fact about which the parties did agree, is that the Container Royalty Fund provides the local with a list of only those members from whose container royalty payments the local service fee was not deducted. If the local uses the computer system to determine whether a nominee has paid all of his or her financial obligations and is therefore eligible to be a candidate for election, the local must have a record of all of the payments that the member made, even those made through a check-off. Of the computer records President Smith provided, none of the records indicated any payments made via check-off. Without this information, it would be impossible for the local to determine whether a member paid his or her financial obligations by consulting the computer system alone.

This Committee recommends that the local request from the Container Royalty Fund a list of all members who received container royalty payments since 2016 and the amounts deducted. The local should input all of this information into its computer system so that it can easily determine who has paid and who has not paid and can collect from those members who did not pay their financial obligations.

This Committee finds that Local 1408 unreasonably applied the continuous good standing requirement considering the fact that Brother Cameron was permitted to run in prior



officer elections and in the elections for SA&GCD Convention delegate and Wage Scale Committee delegate in December 2022 and did not provide Brother Cameron with notice of the delinquency in time for him to cure the deficiency. Article VI, Section 6 of the SA&GCD Constitution states that “a member who is ineligible to be an officer of a Local Union cannot be a delegate to the Convention.” Therefore, if the local’s position was that Brother Cameron was ineligible to be a candidate for office, he also should have been ineligible to be a candidate for delegate to the SA&GCD Convention. Likewise, the International’s traditional practice has been to apply the same officer eligibility standards to Wage Scale Committee delegates. Thus, if Brother Cameron was ineligible to be a candidate for union office, he also should have been ineligible to be a Wage Scale Committee delegate. However, according to all parties, Brother Cameron was deemed eligible to be a candidate for both SA&GCD Convention delegate and Wage Scale Committee delegate.

Generally, the ILA Constitution does not require a local to inform a member that he or she is suspended due to a failure to pay his or her financial obligations. However, in this case, because Brother Cameron had been permitted to run in multiple elections since the alleged 2015 delinquency, specifically, the election held in 2017, and the DOL-supervised election in 2019 and the Convention delegate and Wage Scale Committee delegate elections in 2022, Brother Cameron had no reason to believe that he was not in good standing. Therefore, Local 1408 should have notified Brother Cameron of his status to permit him to cure the deficiency to allow him to be a member in good standing for two years prior to his nomination.

As to the local’s application of the good standing requirement, this Committee disagrees with Local 1408’s position that good standing for voters differs from good standing for candidates. Article XIV, Section 1 of the ILA Constitution states that a member in good standing

is “any person who has fulfilled the requirements for membership in such organization, and who neither has voluntarily withdrawn from membership nor has been expelled or suspended from membership in accordance with the provisions of this Constitution and the applicable local by-laws.” Article XIII, Section 1(b) of the ILA Constitution states “Each member in good standing shall have the right to vote in the election.” Article XIII, Section 3 states “Subject to such other reasonable eligibility requirements as a local union may impose, no person shall be eligible for office in any local union . . . unless he has been: (a) a member in good standing of such local union for at least one (1) year preceding the date of his nomination, and (b) working, or seeking work, at the trade or craft covered by such local union for at least one (1) year preceding the date of his nomination or employed by the ILA or any of its subdivisions for such year.” Article XII, Section 2 of Local 1408’s bylaws requires a member to be a member in good standing for two years prior to his or her nomination to be eligible to be a candidate for office.

The ILA Constitution specifies only one definition of “good standing.” Therefore, this standard must be applied both in determining officer eligibility and voter eligibility. The only difference in the application of the standard is that the officer eligibility standard includes a continuous good standing requirement whereas Article XIII, Section 1(b) of the ILA Constitution permits a member to pay any outstanding financial obligations on the day of the election and vote in the election.

Due to the questionable integrity of Local 1408’s financial records and Local 1408’s inconsistent application of its eligibility standards and failure to notify Brother Cameron of his delinquency, this Committee believes that Local 1408 improperly declared Brother Cameron to be ineligible to run for union office.

### ADDITIONAL REMARKS

During the hearing, there was disagreement among the parties regarding the finances of the local and amounts that members owed, which concerns this Committee greatly. This Committee strongly recommends that the South Atlantic and Gulf Coast District perform an audit of Local 1408's finances.

In addition, President Smith admitted that Local 1408 has not had an audit in several years. Article XIII, Section 11 of the ILA Constitution states: "The books and accounts of the local union shall be audited at least annually by a certified public accountant appointed by the Executive Board of the local union, except where the income of the local union is less than \$10,000.00 annually, and in such case the audit shall be by the local's Auditing Committee." Inasmuch as Local 1408's receipts are greater than \$10,000 annually, Local 1408 is required by the ILA Constitution to have an annual audit performed by a certified public accountant. Local 1408 is in violation of the ILA Constitution and this Committee strongly recommends that Local 1408 take steps to have a certified public accountant perform an annual audit in accordance with the ILA Constitution.

Finally, this Committee notes that Local 1408's bylaws do not specify the due date by which members must pay their financial obligations to the local. This Committee strongly recommends that Local 1408 amend its bylaws to specify the deadline for paying the 5% local service fee on container royalty payments and the local out-of-pocket dues.

### RECOMMENDATIONS

Based on the above, this Committee makes that following recommendations:

1. The SA&GCD's decision on Brother Thomas's protest shall be overturned so that he is ineligible to be a candidate for office;

2. The SA&GCD's decision on Brother Hopkins's protest shall be upheld so that he is eligible to be a candidate for office;
3. The SA&GCD's decision on Brother Cameron's protest shall be upheld so that he is eligible to be a candidate for office;
4. The election for the positions of President and Vice-President shall be re-run within forty (40) days of the Executive Council's decision with Brothers Hopkins and Cameron included on the ballot. Nominations shall not be re-run. Proper notice of the re-run election shall be sent to each member's last known home address at least fifteen (15) days prior to the election. When re-running the election, Local 1408 shall ensure that the same definition of good standing is applied to both voter eligibility and candidate eligibility;
5. The SA&GCD shall oversee the re-run of the election;
6. The SA&GCD shall perform an audit of Local 1408's finances; and
7. Local 1408 shall amend its bylaws to include due dates for financial obligations owed to the local; and
8. Local 1408 shall submit its bylaws to the International for review.

/s/ Thomas Little  
Thomas Little  
*Chairman*

/s/ Scott Cowan  
Scott Cowan