

In the Matter of
Charges against Andrew O'Connell

Report of the Trial Committee

On November 30, 2011, Union member and President Harry Farrell filed Charges and Specifications against Andrew O'Connell, as follows:

Pursuant to Article XX of the By-Laws of Local 1-2, Utility Workers Union of America, AFL-CIO, the undersigned hereby charges Andrew O'Connell, Vice President and member of Local 1-2, with having engaged in malfeasance, misuse of office and willful harm to this Local Union, as an Officer and member of this Local, as follows:

He attempted to organize a disruption of the Local 1-2 General Membership Meeting of November 10, 2011, including but not limited to urging members to "charge the stage" if he did not prevail in his efforts with regard to a proposed motion to postpone an internal union trial on charges against him.

He disrupted the Local 1-2 General Membership Meeting of November 10, 2011, by climbing on a table on the podium and, while walking back and forth on the table, led some members in a chant which delayed the progress of the meeting. Brother O'Connell engaged in this behavior with full knowledge that there were guests present at that meeting. This behavior, among other things, is contrary to the interests of this Local and, thus, violates the Obligation of Members as set forth in Article III, Section 4, of the Local's By-Laws.

During the Local 1-2 General Membership Meeting of November 10, 2011, he disrupted the speech of a guest speaker, thereby causing willful harm to the Local Union.

The Charges were mailed to Mr. O'Connell on December 5, 2011, together with a notice advising him that the trial would be held on Wednesday, January 18 at 9 AM at the Union office at 5 West 37th Street, New York, NY.

The Post Office did not return the signed green certified mail receipt to the Union. However, the USPS Track and Confirm website showed that the letter was delivered at 11:33 AM on December 6. An inquiry form from the Post Office showed the signature of someone at Mr. O'Connell's address as receiving the letter at 11:33 AM on December 6.

As a threshold matter at the Trial, Brother O'Connell asked that the Committee dismiss the charges on the basis that the charges had not been properly served since the signed green certified mail receipt could not be produced. He denied receiving the certified letter and denied that the signature on the Post Office inquiry form was his signature. By a vote of 24 to 0, the Trial Committee denied Brother O'Connell's request and voted to continue with the Trial. It appears that the letter containing the charges was in fact delivered to Brother O'Connell's home address on December 6 at 11:33 AM, as evidenced by the website Track and Confirm history for this certified letter and by the Postal Service inquiry form that bears the copy of a signature of someone at his

address. Even if Brother O'Connell did not sign for it personally, someone in his household did. In addition, there is no requirement in the By-Laws that the hearing cannot be held less than seven days after *receipt* or *delivery* of the charges, only that it cannot be held less than seven days after *mailing* of the charges. Here, the hearing was convened more than a month after the mailing of the charges. Finally, the Committee notes that Brother O'Connell concedes that he received a copy of the charges by email on January 6, more than a week before the January 18 hearing. Thus, even if he were to be believed that the letter was not delivered to his house on December 6 as USPS records indicate, there is no evidence that he was in any way prejudiced. Thus the Trial Committee unanimously decided to proceed with the Trial on the merits.

After being sworn in, President Harry Farrell testified that prior to the November 10, 2011 General Membership meeting, the Union received a copy of an email that Brother O'Connell sent to another Union member on November 9. In that email, with the subject line "My Speach [sic] for Tomorrow," O'Connell wrote "Print a copy of the attached for yourself. Follow along and begin the chants when needed. Remember to let you [sic] people know the chants from the floor are important." Attached to the email was what was apparently the speech Brother O'Connell intended to give at the meeting the next day. The speech was about disciplinary charges against Brother O'Connell that were pending, charges that O'Connell felt should be withdrawn or at least postponed. His speech indicates where people should begin

chanting “Withdraw these charges” and concludes with the following paragraph:

Mr. President, **For the Good of The Union** I move a motion to postpone the trial until after the ratification of the Con Edison and the USPG contracts. This is a properly moved motion in proper order and you must recognize it, ask for a second, discuss it if necessary and allow the membership to vote on it now.

If the Chair shuts it down, Chant begins LET US VOTE and charge the stage. (emphasis in the original)

According to President Farrell, because he was concerned about what could transpire the next day, he arranged for additional security at the meeting. Following the President’s Report, as another member was speaking at the microphone about the charges being faced by Brother O’Connell, O’Connell jumped over the table and off the stage to run to the microphone. Then, after he returned to the stage, he jumped up on the table at which other officers and guests were seated and began pacing back and forth, chanting, “We Are One” and waving and beckoning with his arms, as if to encourage people up towards the stage. After a considerable amount of time, order was restored and Brother O’Connell returned to his seat. Then the guest speakers began their presentations, with some difficulty. At some point, while Attorney John Dearie was talking about a state statute related to the rights of members impacted by 9/11, Brother O’Connell joined in chants or disruption being led from the floor, interfering with the speech.

James Bambina, James Shillitto, Robert Stahl and John Capra were all called as witnesses and under oath confirmed in essence President Farrell’s version of Mr. O’Connell’s conduct at the November 10

meeting. Brother Bambina also testified about conversations with Brother O'Connell before the meeting in which O'Connell was discussing various ways pressure could be brought on the Union to dismiss or postpone the charges against him. Disruption of the General Membership meeting to keep the agenda from moving forward was one of the tactics O'Connell was discussing. Brother Stahl testified that before the meeting began, he witnessed Secretary-Treasurer Lucia Pagano delivering some papers to O'Connell related to his charges. O'Connell looked at the papers, then crumpled them up and threw them on the floor.

Following the presentation of witnesses by the Charging Party, Brother O'Connell was given an opportunity to present witnesses on his behalf. He chose not to do so, but instead made a brief statement. IN response to the Chairman's questions, he admitted that he had jumped off the stage, admitted jumping up on the table and walking back and forth, and admitted throwing on the floor the papers Sister Pagano had given him. He asserted that he had done nothing illegal under the By-Laws and that his leading the chant "We Are One" was the same as when President Farrell leads a similar chant at Union meetings. When members of the Trial Committee asked him further questions, he declined to answer. He never denied sending the email asking that members at the meeting join a chant in support of his position on his disciplinary charges and then "charge the stage."

The Trial Committee voted 23 to 0 with one abstention to convict on Charge 1 and 24 to 0 to convict on Charges 2 and 3. Brother

O'Connell has an obligation under Article IX, Section 2 of the Local 1-2 By-Laws to cooperate with the President. In addition, he has sworn, as a member of the Union, to "try by every means within [his] power [to] promote the interests" of the Union. His actions violated these obligations.

As to Charge 1, the November 9 email constitutes clear evidence that Brother O'Connell was encouraging members to disrupt the meeting by beginning or joining prolonged chants in support of his attempts to have his charges withdrawn or his trial postponed and then, most significantly, by "charg[ing] the stage." This action could have easily resulted in violence and/or injury to members and guests. Brother O'Connell does not deny sending this email. He is guilty of Charge #1.

As to Charge 2, it is undisputed that following the President's Report, Brother O'Connell jumped up over the table and off the stage to go to the microphone to address the membership about his pending disciplinary charges, and then later jumped on top of the table on the stage and paced back and forth, screaming and waving his arms around, leading the members in a chant unrelated to the business properly before the meeting at the time. Guests—Attorney John Dearie, National Union Vice-President John Duffy and National Union Chief of Staff Stewart Acuff, Acuff's 12-year-old daughter, and a young man involved with the Occupy Wall Street movement—were present on the stage. Brother O'Connell's conduct essentially derailed the entire meeting. Members were confused and frightened, many of them leaving the

meeting when the disruption began. The chanting and heckling that were precipitated by his actions continued throughout the meeting. Brother O'Connell's inciting the We Are One chant in support of himself, while he was jumping on a table and thrusting his arms in the air and screaming, during what was supposed to be a discussion of the President's Report, was very different from the President leading such a chant in support of Union solidarity at an appropriate time during the meeting. Brother O'Connell is guilty of Charge #2.

As to Charge 3, as noted above, the noise, yelling, disruption, heckling and chanting that were set off by Brother O'Connell's email and his conduct at the meeting made it very difficult for the guest speaker part of the meeting to proceed smoothly and respectfully. Attorney John Dearie had to shorten his presentation and members that needed the information he was trying to present had to get the information elsewhere. Many members could not hear what the speakers were saying because of the noise from the floor. Brother O'Connell is responsible for inciting the chanting and disruption at the meeting. His email makes clear that he wanted people to chant from the floor as it read, "Remember to let you [sic] people know the chants from the floor are important." He is guilty of Charge #3.

By a vote of 21 to 0, with 3 abstentions, the Trial Committee voted to recommend to the membership that Brother O'Connell be expelled from office and that he be barred from running for or holding any Union position or office, from shop steward on up, for a period of seven years. O'Connell is a member and was an officer of the Union at the time of the

incident. His conduct jeopardized and embarrassed the Union and its members and guests. Some of the witnesses testified that it was the worst behavior they had ever seen at a union meeting and that they felt disgusted and intimidated and threatened. The mayhem Brother O'Connell incited could have led to a riot, to people getting hurt, to police being called. He was disrespectful of the President, Local officers, National officers, members and guests, including a 12-year-old girl. He placed his own personal interests above those of the Union. The penalty needs to be a serious one both to reflect the gravity of his misconduct and to serve as a deterrent for others.

The penalty recommended would not affect his status as a member in good standing. However, as an officer of the local, his punishment should be such that there is no question that when you do something that harms the people you represent, the consequences are serious. His conduct was willful. It was harmful. It was destructive. He knew what he was doing and he needs to bear the consequences—the loss of the privilege of representing this Local and its members for seven years.

So recommended.

Respectfully submitted,

Richard McNally, Chairman
January 25, 2012

Trial Committee:

Richard McNally, Chairman
Vito Carbonara
Emilio Frederick
Sean Harte
Vincent Kyne
Joseph Mussillo
Raymond Sherwood
James Spry
Rocco Talarico, Jr.
Rich Velocci
Frank Vivola
Jean Washington
Thomas Zummo

Paul Caminiti
Dorothy Curry
Sal Guercio
Chris Katzmann
Desmond Loughran
Norman Russell
William Smith
John Stadtmuller
Justo Vega
Marc Vingelli
Robert Vuono
Donald Weidman