



SUDDUTH & ASSOCIATES, L.L.C.

State abbreviations show jurisdictions
in which attorney is licensed to practice.

A LIMITED LIABILITY COMPANY

OF COUNSEL:

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May 28, 2020

ATTORNEYS:

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Mr. Scott Morgan
Interim Chief of Police
Lafayette Police Department
900 E. University Ave.
Lafayette, LA 70503

VIA CERTIFIED MAIL: 7018-1830-0000-7449-8923

RE: Cpl. David Stanley

CEASE AND DESIST

To Whom It May Concern:

Please be advised that Sudduth & Associates, LLC, who serves as counsel for the Louisiana Union of Police Associations ("LUPA"), advocates for the interests of Cpl. David Stanley with regard to the recent events surrounding his employment with the City of Lafayette Police Department (hereinafter "LPD" or "the Department"). Kindly direct any and all future communications concerning this matter to my attention. Further, if you are represented by counsel, please direct this correspondence to the same for their review and consideration.

My office has been apprised of the recent acts of unwarranted retaliatory action you have taken against Cpl. Stanley, which includes, but is not limited to, the commencement of an Internal Affairs Division (IAD) arising upon alleged violations of several media/news/reporting policies, as well as various attempts to transfer Cpl. Stanley from his former canine position to a patrol position. Upon good information and belief, the actions you have taken against Cpl. Stanley stem directly from various statements he had made, as the acting President of the Police Association of Lafayette Local #905 (hereinafter "Local #905"), in opposition to H.B. 577, which is currently pending before the Louisiana Legislature.

Given the established Federal Constitutional Law, Louisiana Law, Civil Service Law and the Officer Bill of Rights applicable to the factual circumstances, you are hereby directed to:

**CEASE AND DESIST ALL RETALIATORY ACTIONS AGAINST OFFICER
CPL. STANLEY RESULTING FROM LOCAL # 905'S PUBLIC OPPOSITION TO
HB577.**

I. BACKGROUND

At all relevant times, Cpl. Stanley has been an employee of the City of Lafayette Police Department (LPD). Furthermore, at all relevant times, Cpl. Stanley has served as the President of the Police Association of Lafayette Local #905, which is a labor organization comprised of classified civil service employees, many of whom, like Cpl. Stanley, constitute the LPD.

In January 2020, Local #905 voted to publicly oppose HB577, which, as you know, is a proposed piece of legislation that would operate to permit chiefs in the referenced municipalities to select individuals for promotion for *any reason*, as opposed to the current system which affords promotions to those with the most seniority or who are otherwise the most qualified candidate.

In May 2020, Local # 905 held a subsequent, digital vote, and the members voted to continue verbal opposition as HB577 began garnering heightened attention within the Legislature.

At 8:45 a.m. on May 15, 2020, Cpl. Stanley, as Local #905's President and spokesperson, posted a video on the Police Association of Lafayette Local #905 Facebook page. The video, which is approximately 1:00 minute in length, informs viewers of the proposed effects of HB577 and asks its viewers to vote against passage of HB577 to maintain a discrimination-free promotion system. Notably, the Political Activity Handout provided by the Louisiana's State Examiner's Office – a document expressly discussed and incorporated into LPD's Social Media Policy – specifically allows Civil Service Employees to “publicly support or oppose issues of public debate or election other than in support of or opposition to a candidate or political party or faction,” as such action is **not** considered a prohibited political activity.

On May 22, 2020, Cpl. Stanley received an Internal Memorandum informing him that an Internal Affairs Investigation was commencing against him as an officer of LPD. Notably, the face of the Memorandum unequivocally indicates that the Investigation stems directly from Facebook posts posted to the Police Association of Lafayette Local #905 Facebook page, as indicated by the various references to policies regarding public information and media/news outreach. Thus, Cpl. Stanley is being placed under an “investigation” for speech of the Police Association of Lafayette Local #905.

II. THE INVESTIGATION LODGED AGAINST CPT. STANLEY IS UNLAWFUL AND MUST BE WITHDRAWN IMMEDIATELY

First and foremost, it is **not** within the authority of the LCG or LPD to regulate the activities of the Police Association of Lafayette Local # 905. Furthermore, unions are entitled to the First Amendment protection guaranteeing freedom of expression, *see Lake Charles Police Officers' Ass'n Local 830 AFL-CIO v. Roach*, 211 So. 3d 1173 (La. App. 3 Cir. 02/15/17), and a labor union comprising civil service employees is an entity which is distinct and distinguishable from its members such that an endorsement or statement by the union through its president is **not** the president's personal endorsement or statement. *Id.* With this in mind, to the extent you seek to discipline Cpl. Stanley as an employee of LPD for statements he made in his capacity as the

President of Local # 905 on behalf of Local # 905, you do so in fundamental error and in reckless disregard for established First Amendment freedoms.¹

In a similar regard, the Facebook posts made on the Local #905 Facebook page are **not** attributable to Cpl. Stanley. Accordingly, no LCG or LPD policy actually governs the content of those Facebook posts. For that reason, the content of Local #905 posts cannot be a means to justify an otherwise unwarranted investigation of Cpl. Stanley as a LPD officer.

CEASE AND DESIST

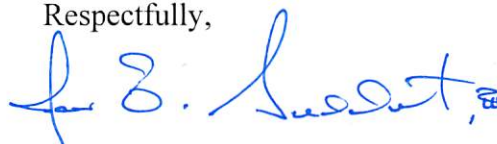
Based upon the foregoing, we demand that you (A) immediately cease and desist your unlawful, retaliatory investigation of Cpl. Stanley and any attempts to unlawfully transfer him from his current position, and (B) provide us with prompt written assurance within ten (10) days that you will cease and desist from further unlawful action.

If you do not comply with this cease and desist demand within this time period, Cpl. Stanley is entitled to seek monetary damages and equitable relief under the confines of established law. In the event you fail to meet this demand, please be advised that Cpl. Stanley has asked us to communicate to you that he will pursue all legal remedies, including seeking monetary damages, injunctive relief, and an order that you pay court costs and attorney's fees. Your liability and exposure under such legal action could be considerable.

That being said, before taking these steps, Cpl. Stanley wished to give you one opportunity to discontinue your illegal conduct. Please confirm in writing to our office no later than Friday, June 5 that you will cease violating tenets of established law and unlawfully retaliating against Cpl. Stanley for statements made in his capacity as President of Local # 905. Should you fail or refuse to do so, a lawsuit will be commenced immediately.

If you have any questions or concerns, or if you would like to discuss this matter further, please do not hesitate to contact me at (337) 480-0101 or by email at james@saa.legal.

Respectfully,



James E. Sudduth, III

¹ In *Local 830*, the Third Circuit Court of Appeals held that a union is an entity which is distinct and distinguishable from its members, and the endorsement of a political candidate by a union through its president is not a personal endorsement of that candidate by him. 211 So. 3d at 1179. Certainly, if a union is permitted to endorse a political candidate without violating Civil Service Laws proscribing individual Civil Service Employees from doing the same, a union is readily able to publicly oppose a piece of legislation, which is not tied to any political party or candidate.

Cc:

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