B.C.D. 00-23

JUN 30 2000

EMPLOYER STATUS DETERMINATION
National Marine Engineers' Beneficial Association (NMEBA)

This is the determination of the Railroad Retirement Board concerning the continued status of the National Marine Engineers'Beneficial Association (NMEBA), B.A. No. 8919, as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.) (RUIA).

The NMEBA has been an employer within the meaning of the Railroad Retirement Act and the Railroad Unemployment Insurance Act. Its name appears in the Employer Status List under B. A. No. 8919, with the period of creditable service shown as February 23, 1875 to date.

Information in response to a coverage investigation regarding NMEBA was obtained in April 1995 from Michael Derby, an attorney for NMEBA. According to Mr. Derby, for many years, NMEBA officers were covered by the Board and contributions were paid on behalf of their participants. However, Mr. Derby stated that since December 31, 1992, NMEBA officers have received no compensation from NMEBA and the present Constitution provides that officers shall serve without salary. Thus, according to Mr. Derby, there are no salaried NMEBA officers and therefore no contributions have been made to the Board since 1992. Mr. Derby also stated that NMEBA and its subordinate Districts no longer represent employees employed in the railroad industry.

Recent information regarding NMEBA was obtained in March 2000 from Mr. George E. Clements, Associate General Counsel for NMEBA. According to Mr. Clements, NMEBA does not currently have any "railroad employees, railroad engineers, or railroad cargo handlers" as members of its labor union. Mr. Clements stated that NMEBA holds a charter from the AFL-CIO. It is composed of districts of which District No. 1, PCD, MEBA is a sole surviving district. District No. 2 left NMEBA in March 1994. District No. 3, which represented radio officers on board ships, left the NMEBA in December, 1998. NMEBA's purpose is to function solely as a labor union. The one surviving district, District No. 1 MEBA, primarily represents licensed officers both deck and engine who are employed on vessels engaged in the domestic and foreign commerce of the United States. District No. 1 has a division which represents shoreside employees that primarily work for APL as clerks and another shoreside division known as the City Burough of Juneau division which also represents shoreside people in Juneau, Alaska. Neither one of these divisions represents railroad employees. The district also has several autonomous affiliates that represents shoreside individuals but to the best of Mr. Clement's knowledge, none of them represent railroad employees. NMEBA does not have the right to participate in the election of labor members of the National

National Marine Engineers' Beneficial Association (NMEBA)

Railroad Adjustment Board, nor is the association maintained or controlled wholly or principally by two or more railroad employers covered under the Railroad Retirement Act, according to Mr. Clements. Lastly, Mr. Clements stated that NMEBA has "no overall relationship with the railroad industry."

From the information obtained regarding NMEBA, it appears that NMEBA (1) does not represent any rail employees (2) has not participated in the election of labor members of the National Railroad Adjustment Board for at least the previous seven years and (3) has not filed compensation and service reports since December 31, 1992.

Section 202.11 (20 CFR 202.11) of the Board's regulations states that:

> The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

The information summarized above indicates that NMEBA has lost the essential characteristics of a rail labor organization and no longer meets the definition of an "employer" under the Acts. The Board therefore finds that effective with the close of business on December 31, 1992, the date compensation was last reported for any officers or members of the labor organization, the National Marine Engineers' Beneficial Association ceased being a covered employer under the Railroad Retirement Act and the Railroad Unemployment Insurance Act.

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