



INTERNATIONAL BROTHERHOOD OF TEAMSTERS

NOVEMBER/DECEMBER 2008

# TEAMSTER

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**VOTE  
OBAMA/BIDEN  
ON NOVEMBER 4**

# IN THIS ISSUE

## 8 McCain: Enemy of Labor

Republican Nominee's  
Shameful Labor Record

## 14 Precious Cargo

Los Angeles Area Bus Workers  
Join Local 572

## 26 This Bud's For U.S.

Teamsters Rally In Support Of  
Anheuser-Busch Workers

## 28 A Healthy Contract

Nurses Win With Local 332

## 30 Clean & Safe Ports

Teamsters Join Oakland Ports Rally

## 22 Strength Through Diversity

National Caucuses Shape Union For The Future



8



30

## 2 TEAMSTER NEWS

- ▶ Teamsters Train For Activism
- ▶ Union Pitches In For Flood Relief
- ▶ Republican Representative Talks Labor
- ▶ Yellow/Roadway Merger
- ▶ Teamster Monitor Possible Waste Merger
- ▶ Union Mourns Dr. Michael DeBakey

## 20 ORGANIZING

- ▶ Taj Mahal Workers Choose Local 331
- ▶ Local 662 Welcomes AmeriCold Logistics
- ▶ LifeScan Phlebotomists Join Local 727
- ▶ Wasilla Police Vote "Yes" In Alaska
- ▶ Northern Air Cargo Crewmembers Join Local 959

## 32 COURT MATERIAL

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# VOTE!

**J**obs are vanishing in the United States at the fastest pace in years, and the unprecedented \$700 billion bailout of Wall Street has left many on Main Street without help. The bailout fails to allow bankruptcy judges latitude in keeping people in their homes or address concerns about pension security—provisions the Teamsters called for.

As union members working under Teamster contracts, we have done better than most middle-class workers. But the Bush administration's war on working men and women has affected all of us.

That is why I am asking you to talk to your Teamster brothers and sisters, your family and friends about Barack Obama and how his plan for the economy actually takes the middle class and working families into consideration—while McCain's plan continues to favor the wealthy and big business.

This is the same McCain who's been hostile to American workers for the last 26 years. John McCain may be a war hero, but he's no hero to today's working men and women. Just look at his record.

## **McCain's Record**

He voted to cut overtime. He voted against the Employee Free Choice Act. He voted against

extending unemployment benefits. He voted to allow unsafe Mexican trucks on our highways. He voted to kill the minimum wage—19 times. He supports NAFTA, CAFTA and sending American jobs overseas. He even crossed a strike line in January to appear on "The Tonight Show."

It was even more unbelievable to hear him say he's going to "put an end to the reckless conduct, corruption and unbridled greed that has caused a crisis on Wall Street." McCain and his pals were the ones responsible for the reckless conduct on Wall Street. In 1999, John McCain voted for a bill to get rid of safeguards against reckless speculation by banks. That bill became law. It was sponsored by his good friend and top economic adviser, Phil Gramm—the man who said America is a "nation of whiners" facing a "mental recession."

McCain is right when he says we're the victims of greedy Wall Street speculators. Trouble is, McCain's been fighting on their side ever since he got to Washington.

On November 4, remember to vote. And make sure you vote for the candidate that has voted for you.





## Politically Correct

### Teamsters Train for Activism

**M**att Emmick, a dedicated Teamster organizer and business agent with Local 71 in Charlotte, North Carolina, is always looking to increase his knowledge so he can share it with his local's members. That's why Emmick recently traveled to the International Union's headquarters in Washington D.C. for an Election 2008 Activist Training presented by the Department of Field Action.

For Emmick, it was well worth battling hours of traffic to learn how politics, messaging and Teamster participation can make the difference for labor and for the future of our nation.

"We had speakers, role playing and a great workshop on election law. The messaging workshop had broad applications for communicating with the members, for communicating as a union," Emmick said.

Starting in July, the Teamsters "political caravan" made

tour stops in Nevada, Florida, Ohio, Illinois and Washington, D.C., where local union political coordinators and activists learned how to talk politics and get Teamsters out to vote.

"We had a great turnout and interest in these workshops, which got our members mobilized, and enabled us to turn out the vote in November," said Christy Bailey, Director of the Field Action Department. "We talked about the importance of getting people registered to vote, getting the word out on Sen. Barack Obama, building an infrastructure, and ongoing efforts to work toward getting EFCA and other critical legislation passed."

#### Issues that Matter

"I thought the training was fantastic. I wish I had known about this before, during our governor's race in 2006," said Dennis Kashi, a business agent and political coordinator with Local 436 in Valley View, Ohio, a historically critical state for



presidential elections. "The Wellstone training was really good; it taught us how to be sensitive to people's viewpoints and effectively talk to members about the issues that matter."

Representatives from Wellstone Action, a national center for training and leadership development for the progressive movement, presented information on how communication and effective messaging can mobilize Teamster members.

Whether it's talking about voter registration; the Employee Free Choice Act; DRIVE—the Teamsters' political action

committee; or a variety of issues that matter to labor, the workshops provided the skills to accomplish those goals.

"I took away a better understanding of the part we, as Teamsters, play in politics and how to get more involved in politics," said Brian Lytle, a business agent with Local 414 in Fort Wayne, Indiana. "It will definitely help all of us in the long run getting involved."

*For more information, visit [www.teamster.org/DRIVE](http://www.teamster.org/DRIVE).*

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# Disaster Relief

## Union Donates \$200,000 to Iowa Flood Victims

When record floods hit Iowa in June, more than 40,000 people's lives were sent into a tailspin as their homes and businesses were, in some cases, literally washed away.

The aftermath of the flood left thousands without access to the supplies they would need to survive. Working in tandem with the Red Cross, hundreds of Teamsters mobilized in Iowa, donating their time, energy and equipment to provide humanitarian aid.

Teamster locals and Joint Councils from across the Midwest donated drivers and trucks to assist in the efforts. Gary Dunham, Secretary-Treasurer of Local 238 in Cedar Rapids, Iowa, started a disaster relief fund and donated space for staging for the relief efforts. Dunham oversaw an operation that covered the entire state.

"It was a crisis not only for Iowa Teamsters, but thousands of families in the state," Dunham said. "We managed to get through it with the support of President Jim Hoffa, Secretary-Treasurer Tom Keegel and



Joint Council 32 President Sue Mauren."

### People Helping People

Teamsters have made a tradition of responding in times of need. The Teamsters Disaster Relief Fund was established in 1991 and is overseen by International Vice President Cheryl Johnson, who also serves as the Director of the union's Human Rights Commission.

"At its very core, our union is about people helping people," Johnson said. "We have worked very hard to establish a network of partners and members that can quickly respond

to help those in need."

When the flood waters rose near Cedar Rapids, the Teamsters responded to the Red Cross' call for help, as the warehouse storing the relief supplies in Waterloo, Iowa needed to be moved to better coordinate distribution. The Teamster volunteers, using trucks donated by their employers, relocated all the supplies to Cedar Rapids in one day. The supplies were stored in and distributed from a 200,000 square foot warehouse that was fully staffed by union volunteers.

The volunteers were integral to the success of the relief efforts, loading and unloading as many as 60 truckloads of supplies a day and delivering them to families in need.

"We would like to thank the Teamsters for all the support during this disaster," said Michelle Long, a resident and flood victim from Cedar Rapids. "The water, food and other supplies were greatly needed and appreciated."

"The experience renewed my faith in the fact that when tragedy strikes on a giant scale, people step forward in giant ways," Dunham said.



For more information and to find out how you can help, visit [www.teamster.org/info/disasterrelief](http://www.teamster.org/info/disasterrelief).

# Computer Class

## Teamsters and Wayne State University Partner for Training

**THE TEAMSTERS UNION'S** Training and Development Department conducted a Teamsters Leadership Academy on Microsoft software programs in conjunction with Wayne State University (WSU) in Detroit. The program, held June 30-July 2, included 25 participants from locals and Joint Councils throughout the United States and Canada, as well as from the BLET, BMWED and Graphic Communications Conference.

Crystal Leigh, Master Microsoft Trainer, covered an introduction to software programs in Microsoft 2007, including Word, Excel, PowerPoint and Outlook. The program was held in a computer lab at Wayne State University that was arranged by Hal Stack, the university's Labor Studies Center Director.

"The facilities at Wayne State were fabulous, and we appreciate the assistance and support we received from Director Stack and others at the university," said Cindy Impala, Director of the Teamsters Training and Development Department.

"We hope to have more programs of this type for Teamsters. We have had many requests for computer training and our department is trying to address the needs of our affiliates as they see them," said Shawn Ellis, Central Region Coordinator for the Training and Development Department.

The Teamsters Leadership Academy consists of a number of training programs for Teamster officers, business agents and staff. The programs are held at the International Union's headquarters in Washington, D.C. and regionally throughout the United States.

For more information on the programs of the Teamsters Training and Development Department, visit [www.teamster.org/info/training](http://www.teamster.org/info/training).



## Addressing Misconceptions

### Republican Representative Talks About Partnering with Labor

Teamster magazine recently spoke with Rep. Frank LoBiondo (R-NJ) about issues relating to labor and Republicans:

***Soon after you first arrived in the House of Representatives, you helped to defeat the so-called TEAM Act, which would have brought back "company unions," and you have been a strong supporter of the cross-border truck safety issue. How did you find working with the Teamsters Union on these issues?***

The Teamsters Union has been a critical partner for me in these and countless other issues that affect working men and women. Under the leadership

of General President Jim Hoffa and his team, the Teamsters have had a strong presence on Capitol Hill and a powerful voice in ensuring fair operating and trade practices, particularly between the U.S. and Mexico. The Teamsters Union continues to provide me with guidance and support when working on legislation important to its members and, for that, I am continually grateful.

***Would you like to address the misconception that the labor movement only supports Democrats or that Republicans always side with big business?***

Absolutely. It has long been a misconception that Republi-



cans do not support working men and women—a misconception I and roughly 45 of my colleagues in the House have aggressively fought against by creating the Republican Working Group on Labor. As Co-Chairs, Rep. Steve LaTourette (R-OH) and I have been constant and strong voices on behalf of working families, often alongside Democrats on issues important to the Teamsters and their brother unions. Just in the past few years, it has been our Working Group that has ensured Davis-Bacon

wages are protected, pushed through an increase in the federal minimum wage, and supported the Employee Free Choice Act. Unfortunately, some in the labor movement have historically overlooked the Republican support for their issues, thus reinforcing the misconception.

### ***What can Republicans do to convince working-class Americans that they care as much about them as Democrats?***

I think there is blame to be found with both Republicans and with some in the labor movement. Often to our own detriment, Republicans cast issues in terms of management vs. employees. The reality is that everyone is affected, not just the employees, should a company file for bankruptcy or shift operations overseas. Each side should have a seat at the table or a voice in crafting public policy, and I think Republicans and Democrats sometimes forget to consider and evaluate the opposing view on their own merits.

Likewise, some members of the labor movement will only highlight the work that Democrat officials are making on their behalf. But with a 45-person-strong membership in the Republican Working Group on Labor and countless successes being achieved through bipartisan cooperation, it is a disservice to working men and women by their leadership to not hear of the genuine support by some Republicans, such as myself, for their causes. That is why I am appreciative of the Teamsters Union for their continued support of me.

## Yellow/Roadway Merger

### Teamsters to Review and Monitor YRC Plans to Combine Yellow and Roadway Operations

**THE INTERNATIONAL** Brotherhood of Teamsters will closely review the September announcement by Yellow Worldwide Inc. [Nasdaq: YRCW] that it will combine its Yellow and Roadway freight operations over the next 18 months.

"The Teamsters Union will carefully monitor the potential impact on the jobs and conditions of our members," said Tyson Johnson, International Vice President and National Freight Director. "There is a process outlined in the National Master Freight Agreement that the union will utilize to ensure that our member's are treated

fairly throughout what will inevitably be a very difficult process."

The economy in the past two years has not been supportive of growth in the freight industry. In 2007, it was the third year of flat or negative demand for freight transportation services of all modes. Record fuel costs continue to negatively impact margins. The housing and auto slump have reduced the demand for freight shipments as has the manufacturing turndown and rising unemployment. These are trends that are not likely to see substantial improvement in the remainder of the year.

While the Teamsters Union recognizes that the Bush administration's economic policies have had a dramatic negative effect on freight and the entire transportation sector with high fuel prices and reduced economic activity, the union will fight to preserve members' jobs and benefits in this restructuring through vigorous enforcement of the freight contract negotiated earlier this year.

*For more information, visit [www.teamster.org/info/freight](http://www.teamster.org/info/freight).*

# New Day At Quebecor

## Workers Now Have Dues Check Off

**M**ore than 650 workers at Quebecor's Clarksville, Tennessee printing facility are now working under a new and improved collective bargaining agreement. Workers recently ratified a four-year contract that has resulted in a more unified bargaining unit, increased union membership and the retention of the 401(k) plan.

"Considering we are in a right-to-work state, what we have in this new contract is phenomenal," said Paul Allen, an 18-year employee of the bindery department and shop steward for GCC Local 290-M.

Some of the contract gains at Quebecor/Clarksville:

- Dues check off;
- Opt-out, opt-in language for health and welfare;

- Additional stewards recognized in departments;
- Adjustments in pay to more than 100 jobs;
- Grievance procedure greatly enhanced; and
- Extra week of vacation for workers with more than 25 years of service.

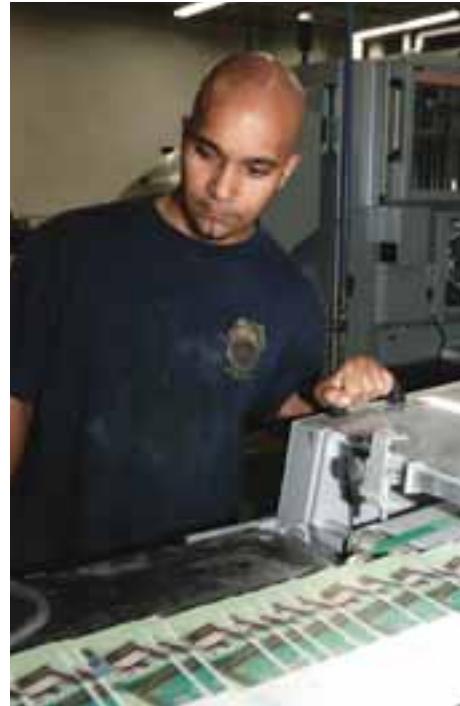
The opt-in, opt-out option for health insurance was a major milestone for the contract. Essentially, if the local union can find a better benefits package that costs less than what is currently in the company's plan, the local union can opt-out of the company plan.

### A Stronger Bargaining Unit

"It was inspiring to see this negotiating team act as one throughout the process," said

Tom Jolley, chief negotiator for the local union and an organizer for the Graphic Communications Conference. "Their enthusiasm also caused many of their coworkers to start making their voluntary dues payments. In a state such as Tennessee, which is a right-to-work state, union participation can be slow going, but even before the contract was ratified and the dues check-off procedure was in place, workers were seeking out the union and paying their dues."

Now, with nearly 50 percent of the unit consistently paying dues, the local can afford an office and a meeting hall where they can hold regular meetings. Attendance at their meetings has steadily and quickly increased.



"I think the combination of increased member support, and support from the Teamsters Union for the GCC since the merger, is strengthening us," said Greg Sunby, a 12-year maintenance department employee and Recording-Secretary of GCC Local 290-M.

"We worked hard and I believe this is the best union contract that we've had at this facility," said David Black, an 18-year press room employee and President of the local union. "And gaining a stronger, more unified bargaining unit has been one of the best outcomes of the new contract."



*For more information on the Graphic Communications Conference of the Teamsters Union, visit [www.teamster.org/info/GCC](http://www.teamster.org/info/GCC).*



## Memphis Ready Mix Drivers Teamsters Again

**Local 984 Fights Back After Company Pushes for De-Cert**

**N**athaniel Jones is glad to be a Teamster again. Until earlier this year Jones was a shop steward at Memphis Ready Mix. He's worked for the company for 28 years and lived through the company's refusal to negotiate a new contract, its bitter fight to oust the union and Local 984's eventual victory to represent the workers once again.

"I feel great," Jones said about being a Teamster again. "I've never worked nonunion."

The problems with Memphis Ready Mix started back in March 2006, when the workers' contract expired, said Local 984 President Terry Lovan. The company, whose drivers had been covered by Teamster contracts since the 1970s, decided to drag out negotiations and was unwilling to budge.

"Negotiations went on for 18

months and then they started implementing votes to withdraw recognition," Lovan said.

The company brought in a union-busting law firm out of Chicago and brought in managers from the company's corporate headquarters, Buzzi Unicem USA, to try to intimidate workers. In November 2007, during the height of the decertification campaign, the company even went on a hiring spree. It hired more than a half-dozen drivers who would vote against the union. Still, the union drivers stuck together and defended their union.

The final straw came in February 2008, when Memphis Ready Mix's corporate parent purchased Memphis's City Concrete Co. for \$7.2 million. All of a sudden Memphis Ready Mix doubled in size, growing from 58 employees to

119. And like in every merger, the new employees were worried about keeping their jobs in the new company.

Shortly after the acquisition, the company withdrew its recognition of the Teamsters Union as the bargaining agent for the workers.

But Jones, Lovan and the Teamsters of Local 984 were not going to take the defeat lying down.

### Re-Organizing

They began to organize two-man teams to take union information to the drivers and began gathering union authorization cards. With the decertification out of the way, the company "began weeding out workers from City Concrete," Lovan said. "And then we ended up with a majority anyway."

Still it wasn't easy, Jones said. "A lot of the drivers were anxious. And on some of them, the company used scare tactics. They were afraid to vote for the union. I think the local handled everything great. We had people we know come down here and help us and we had the people who were already in there."

The election results came in May 1 and no objections were filed by the company. Lovan is working on dates to resume contract negotiations.

"I want to get the company back to the table and the benefits back to the workers. I want to get their dignity and respect back," Lovan said.

***"I want to get the company back to the table and the benefits back to the workers. I want to get their dignity and respect back."***

—TERRY LOVAN, LOCAL 984

PRESIDENT



# Waste Watch

## Teamsters Monitor Possible Republic, Allied Merger

The Teamsters Union is carefully monitoring and analyzing the announced merger of Republic Services Inc., the third largest waste and recycling company in the country, and Allied Waste Industries Inc., the second largest such company.

"I realize our members at Allied and Republic must be anxious about this possible merger," said Bob Morales, Director of the Teamsters Solid Waste, Recycling and Related Industries Division. "We understand members' concerns and we are taking a comprehensive approach—we'll be talking to shareholders about our concerns, contacting state officials and doing economic and environmental assessments—all in an effort to make sure our members' jobs and interests are protected."

"We have put together legal, financial and strategic experts to monitor the latest developments and the potential impacts on our members," Morales said. "At this point there are a lot of unknowns but as we develop information and gain insight, we will share that with local union leaders and our members."

Shortly after the possible Allied and Republic merger was announced, Waste Management Inc. announced that it wanted to buy Republic. However, Republic has rejected Waste Management's hostile \$6-billion-plus offer and said its planned purchase of Allied will be better for shareholders.

The Teamsters Union represents about 3,000 workers at Republic, about 6,000 at Allied Waste and about 8,700 workers at Waste Management.

### Stay Informed

If Allied and Republic move forward with their plans to merge, the combined company would be the waste industry's second largest company after Waste Management. If Republic accepts Waste Management's offer instead, Waste Management, already the nation's largest waste corporation, will dominate the industry even more pervasively. This could lead to more anti-trust scrutiny and possible divestitures of operations imposed by the Department of Justice.

The Republic/Allied trans-



action, if it clears regulatory hurdles and is approved by shareholders of both companies, is expected to close by the fourth quarter of 2008. The companies claim the merger will generate about \$150 million in annual savings by the third year following the completion of the merger.

Republic said it plans to merge with Allied Waste for

\$6.24 billion in stock, creating a \$12-billion waste and environmental services company. Allied CEO John Zillmer and CFO Pete Hathaway announced that they will leave after the completion of the merger.

*For more information, visit [www.teamster.org/info/wastemerger](http://www.teamster.org/info/wastemerger).*

#### IN MEMORIAM

## Teamsters Mourn Dr. Michael DeBakey, Medical Pioneer and Union Supporter

On July 11, the medical community and Teamsters Union alike lost a comrade, pioneer and friend when Dr. Michael DeBakey, who helped to develop open heart surgery, passed away. He was 99.

Known the world over for his work in cardiovascular medicine, DeBakey strongly supported the Teamsters Union through his active role on the Teamsters Medical Advisory Committee where he was often asked to give expert medical advice to help advance labor conditions for working Americans. During his career, he performed more than 60,000 cardiovascular procedures on patients ranging from former Russian President Boris Yeltsin to

rank-and-file Teamsters.

"Dr. DeBakey opened the doors to any type of expertise that we needed in the medical field," said R.V. Durham, former International Vice President, Teamsters Freight Director and Health and Safety Director, who worked closely with DeBakey.

Among his many labor-related accomplishments, DeBakey paved the way for men and women with prosthetic limbs to become qualified by the Department of Transportation to drive large vehicles, ending long-time discrimination against individuals with disabilities.

DeBakey also led a fight to ban the use of diesel-powered lifts and other heavy diesel-powered machinery because of the health risks such equipment posed through the emissions of carcinogens into the air.

Dr. Donald Dawson, current chairman of the Teamsters Medical Advisory Committee, commended DeBakey for his loyalty to the medical profession, as well as to the Teamsters Union. "I don't think we'll ever be able to duplicate the dedication he gave us. A man of his reputation will be hard to match," Dawson said.

*For more information on the Teamsters Safety and Health Department, visit [www.teamster.org/info/safetyandhealth](http://www.teamster.org/info/safetyandhealth).*

# McCain: Enemy of Labor

REPUBLICAN NOMINEE'S  
SHAMEFUL LABOR RECORD



AP/WideWorld



***"What really concerns me about John McCain is that he will continue George W. Bush's failed economic policies. Again and again, he has sided with corporate special interests instead of the middle class."***

— JIM HOFFA, TEAMSTERS  
GENERAL PRESIDENT

Sen. John McCain deserves our respect and gratitude for his service to our country. But he should not get our vote.

McCain is completely out of touch with the problems faced by working families. If elected president, he will continue George Bush's policies that led to job loss, huge deficits and inflation. Though McCain served in the military more than 25 years ago, his understanding of serious foreign policy matters is often shaky.

"Looking at the problems facing our great nation, and the presidential candidates who will inherit eight years of disastrous policies, a crisis on Wall Street and neglect of working families, one thing is clear: McCain is not the person who will right the wrongs of the Bush administration," said Jim Hoffa, Teamsters General President.

McCain has demonstrated countless times that he is clueless about the economic realities in America today. Time and again he's demonstrated his disinterest in helping ordinary people, often to the benefit of his wealthy cohorts. Wealth and privilege shaped McCain's view of public policy. He believes that the rich should be rewarded, even at the expense of working Americans.

His Senate voting record—almost identical with the Bush administration's policies—should disturb any working American. So should the dozens of lobbyist friends who advise him on his campaign. Among the many votes McCain cast at the expense of everyday working



**McCain is the staunchest advocate of free trade in the U.S. Senate. He voted for every disastrous free-trade agreement since NAFTA. He strongly supports a trade deal with Colombia. He's a leader in the effort to open the border to dangerous trucks from Mexico.**



Americans were:

- Voting to eliminate overtime pay for 8 million American workers;
- He voted to allow companies to cut and eliminate pensions for their long-term employees; and
- He voted to weaken OSHA workplace regulations designed to prevent injuries on the job.

"I don't want a president who, like McCain, has said he 'doesn't really understand economics' or has recently said that 'the fundamentals of the economy are strong.' I want a president who recognizes the dire straits working Americans are struggling through and won't whitewash the problems," said Hoffa.

#### **Anti-Worker Agenda**

That McCain is out of touch with the concerns of ordinary people is clear from his anti-union, anti-worker agenda. In fact, his record speaks volumes about what



McCain had government health care almost his entire life, but he doesn't want you to have it. His health care plan would leave families at the mercy of big insurance companies. Worse, he would tax your health benefits and motivate employers to eliminate benefits.

McCain is the staunchest advocate of free trade in the U.S. Senate. He voted for every disastrous free-trade agreement since NAFTA. He strongly supports a trade deal with Colombia. He's a leader in the effort to open the border to dangerous trucks from Mexico.

"If I were president, I would negotiate a free trade agreement with almost any country," McCain said in a speech in 1999. Last year he said he knows NAFTA was a good idea.

#### **McCain's Cronies**

During the 1980s, the McCains were befriended by Arizona banker Charles Keating. Keating frequently flew them to his vacation home in the Bahamas on his private jet. McCain later said he'd paid for the use of the jet, as required by ethics rules, but the receipts were never found.

Between 1982 and 1987, Keating donated \$112,000 to McCain's campaigns for the House and then the Senate.

McCain's relationship with Keating erupted into a major scandal in 1989. Keating and his cohorts looted Lincoln Savings and Loan Association, causing the most expensive savings and loan failure in U.S. history. Federal regulators wanted to seize control of the failed bank, but McCain intervened to try to prevent that from happening.

McCain, along with four others involved in the scandal, became known as the Keating Five. He was rebuked by the Senate Ethics Committee for his role in the affair.

Taxpayers ultimately bailed out the bank to the tune of \$3.4 billion. In the decades since the scandal, McCain continued to side with his wealthy cronies at the expense of ordinary people.

#### **Close Lobbyist Ties**

His current campaign for president is essentially run by lobbyists with close ties to the big oil companies, Fannie Mae, UBS

#### **John McCain with FedEx CEO Fred Smith.**

he thinks of unions, workers forced out on strike, workers who want to organize and collective bargaining rights. His votes include:

- Voting against the Employee Free Choice Act [H.R. 800, Vote 227, 6/26/07];
- McCain voted for a National-Right-to-Work (for less) Act [S. 1788, Vote 188, 7/10/96];
- McCain voted to allow employers to hire permanent replacements during a strike [S. 55, Vote 189, 7/13/94];
- McCain voted against granting collective bargaining rights for state and local police and firefighters [H.R. 3061, Vote 323, 11/6/01]; and
- McCain voted against granting collective bargaining rights for TSA screeners [S. 4, Vote 64, 3/7/07].

**McCain voted to give tax breaks to companies that send American jobs overseas. He voted against overtime pay, against Davis-Bacon protections, against union-only Project Labor Agreements and against extending unemployment insurance.**

and Blackwater. FedEx Corp. founder and CEO Fred Smith is a close friend who McCain views as a perfect candidate for U.S. Secretary of Defense.

McCain's anti-worker bias resulted in an atrocious voting record during his 26 years in Congress.

McCain voted to give tax breaks to companies that send American jobs overseas. He voted against overtime pay, against Davis-Bacon protections, against union-only Project Labor Agreements and against extending unemployment insurance.

#### **John Herbert Hoover McCain**

McCain spent eight years in the Senate marching in lockstep with George Bush.

Median household income actually fell by almost \$1,000, or by 2 percent, during the Bush administration.

Only 5.6 million jobs were created during Bush's presidency—less than a third of the jobs created by Bill Clinton in the 1990s.

A million homes are now in foreclosure—more than ever in U.S. history. Gas prices have never been higher.

During the past decade, the U.S. economy turned in its worst performance since the Great Depression.

Though candidate McCain now tries to distance himself from George W. Bush's mismanagement of the economy, Sen. McCain voted with the administration 85 percent of the time.

McCain said he voted with Bush 100 percent on the important issues.

"I—the fact is that I'm different but the fact is that I have agreed with President Bush far more than I have disagreed," McCain said on Meet the Press on June 15, 2005. "And on the transcendent issues, the most important issues of our day, I've been totally in agreement and support of President Bush."

McCain mirrors Bush in another important way: his indifference to the plight of Americans who fall victim to disaster. He voted twice against creating a commission to investigate the botched response to Hurricane Katrina—and later said he'd voted for every investigation into Katrina's aftermath.

On January 31, 2008, McCain crossed a Writers Guild of America strike line to appear on the *Tonight Show*.

"What really concerns me about John McCain is that he will continue George W. Bush's failed economic policies," Hoffa said. "Again and again he has sided with corporate special interests instead of the middle class.

"This country desperately needs a new direction, and Barack Obama is the man to take us there."

**On January 31, 2008, McCain crossed a Writers Guild of America strike line to appear on the *Tonight Show*.**



AP/WideWorld



# Conventional Wisdom

## Teamster Carhuler Shares Stage with Obama at Democratic National Convention

**BARACK OBAMA WASN'T** the only speaker who wowed 80,000 people in Denver at the Democratic convention. So did Roy Gross, Recording Secretary for Local 299 in Detroit.

Gross spoke moments before Obama did at Invesco Field. He told the audience that the country needs a partner in the White House who will work for working families.

"Barack Obama will enact fair trade policies and work just as hard for us as we work for America," he said. "I will do everything I can, from now until Election Day, to put Michigan in the Obama column."

Gross is a 48-year-old single dad of a college-aged daughter named Brianna. He is also his precinct's Democratic delegate. After 18 years spent as a carhuler,

he became the Recording Secretary for his local.

Gross was selected for the limelight because an Obama staffer liked the way he introduced the Illinois senator in Warren, Michigan back in May. Three other "real people," as the campaign called them, followed him on the stage in Denver.

Gross' visit to Denver included rehearsals with Obama's staff and wall-to-wall interviews with the news media. He admitted to being nervous about speaking to so many people—which ultimately included a television viewing audience of 40 million.

He needn't have worried. One newspaper headline described the performance as a "dazzling display of the ordinary."



### Renewed Economy

"When I was a young man and wanted to start a family, I went to Detroit and landed a job as an automobile transporter," he told the crowd. "I delivered new cars from the assembly plants to dealerships around the country.

"It was a great job, a Teamsters Union job. You worked hard and it paid good wages, plus health care and pension. I worked there for 18 years. Working class families were doing well in Detroit until the Bush administration took office, then everything changed."

He watched the auto industry dwindle in Detroit, once the world's automotive capital.

Gross said Michigan lost more than 350,000 jobs since Bush took office. "We have the highest unemployment in the nation," he said.

"Manufacturing jobs were exported by the hundreds of thousands and replaced with minimum-wage jobs in the so-called 'New Economy,'" he said. "I'm one of the lucky ones; I still have a job. But many of my friends and coworkers have lost their jobs and their homes."

Gross believes that until there is a change in Washington, people like him and his coworkers will continue to be short-changed.

"We need a renewed economy," he said. "That's why I'm seeing so many of my friends in Michigan—Democrats, Republicans and Independents—putting aside their differences to join the Obama campaign."



AP Worldwide

# Obama's Labor Day Speech

On September 1, Teamsters General President Jim Hoffa stood with Barack Obama as the presidential candidate spoke at a Labor Day event in Detroit. Here is the speech Obama gave:

**THIS LABOR DAY WEEKEND**, we don't just celebrate the end of summer; we also honor the hardworking men and women who have made this country what it is and the American labor movement that has fought tirelessly to improve their wages, benefits and working conditions. America was built by its laborers, but today our workers are struggling just to get by in an economy that no longer works for them.

That's why we can't afford four more years of the failed George Bush economic policies – policies that Senator McCain has proudly embraced and promises to continue. It's time we had a President who will stand up for working men and women by building an economy that rewards not just wealth, but work and the workers who create it. It's time you had a partner in the White House who knows that the struggles facing working families can't be solved by spending billions of dollars on more tax breaks for big corporations and wealthy CEOs, and that hardworking families need immediate relief.

That's why, as President, I'll end tax breaks for companies that ship jobs overseas and give them to companies that create good-paying jobs here at home, and while Senator McCain is proposing \$4 billion in new tax breaks for oil companies that are making record profits I'll put a \$1,000 tax cut into the pockets of 95% of workers and their families.

It's time you had a President who honors organized labor – who's walked on picket lines; who doesn't choke on the word "union"; who lets our unions do what they do best and organize our workers; and who will finally make the Employee Free Choice Act the law of the land.

That is the choice in this election. We can choose to remain on the path that has abandoned workers and gotten our economy in so much trouble, or we can reclaim the idea that in America, opportunity is open to anyone who's willing to work for it.

I've spent my entire career fighting for working men and women. And so has my running mate, Joe Biden, a man whose heart and values are rooted firmly in the middle class. With him by my side, I am confident that we can take this country in a new direction and restore that fair shot at your dreams that is at the core of what Joe Biden and I stand for, and what America stands for as a nation.

**"It's time you had a President who honors organized labor – who's walked on picket lines; who doesn't choke on the word "union"; who lets our unions do what they do best and organize our workers; and who will finally make the Employee Free Choice Act the law of the land."**

– SEN. BARACK OBAMA



photo credit ???

# PRECIOUS CARGO

Los Angeles Area  
Bus Workers Join  
Local 572

**T**he highway Kendra Dugan drives on stretches for miles through California's Santa Clarita Valley. Behind the wheel of a big school bus, Dugan makes her regular stops to pick up children along the way.

"I'm the first friendly face they see in the morning, and I'm the person who drops them off at home at night," said Dugan, a Student Transportation of America (STA) driver and member of Carson, California-based Local 572. Dugan and her coworkers in Saugus, California recently voted to join the Teamsters, along with their STA coworkers at the nearby Santa Clarita yard.

These school bus drivers, attendants and mechanics in the Los Angeles area are the latest group of private school bus and transit workers to join the Teamsters. Since a national campaign to organize the industry began in 2006, nearly 10,000 private school bus and transit workers have chosen Teamster representation. In California, word has spread that the Teamsters is the union for bus industry employees.

"In the past couple of years, we've organized nine school bus and transit locations. Once one group became Teamsters, other groups followed because they had heard from their coworkers in the industry about the benefits of becoming Teamster members," said Rick Middleton, Secretary-Treasurer of Local 572 and Chair of the Teamsters National School Bus and Transit Campaign. "We negotiate strong contracts for our members, which is what they deserve for their commitment and dedication to the important work that they perform for our communities."

### **Successful Organizing**

The First Student school bus yard in Hesperia was the location that started off a string of successful organizing victories for Local 572 in the bus industry. The more than 100 school bus drivers, attendants and mechanics at this location decided to leave another union to gain the strong negotiating power and representation that the Teamsters provide. In a nearly unanimous vote, 104-7, the workers became Teamsters in 2005.

"With our perseverance, and with the perseverance and help of our great organizer, Grace Guitron from Local 572, we had an excellent vote and we've seen a change here since," said Wanda Lechuga, an 11-year driver and shop steward. "We've got better wages and management has to be fair with the allocation of work, like field trips. It's just a more relaxed feeling here and I love my job. I get to see the children over the years and how they evolve; it's great."

Following the victory for Lechuga and her coworkers at the Hesperia yard, other First Student locations began organizing in earnest with Local 572, including several locations in the Los Angeles area this year.

### **Important Work**

"The whole industry needs to understand how important it is that we are transporting people's children. We needed a union





because a union looks out for you and sees to it that you're valued as an employee," said Irene Taylor, a 23-year driver.

Taylor and her First Student coworkers at three locations in Gardena and San Fernando voted to join the union at the same time, making 259 First Student workers

Teamster members in one day.

"My mom and dad were both union members, so I know what a union can do for you," said Mary Mouton, a driver/trainer. "I like my job and what I do, interacting with people on a daily basis. I'm glad to be a Teamster."

## Dedicated Drivers

The kids that ride Dave Corey's bus expect an answer if a new bus picks them up in the morning.

"The parents and kids get used to the same drivers," said Corey, a school bus driver, as well as an organizing and negotiating committee member with STA in Santa Clarita. "If a bus is down, the kids look at the bus number and are sensitive to that, so the company will try and exchange bus number 47 with number 7, for example, just to make it at least a little bit familiar. The kids don't like change."

For the workers at this STA school bus yard, change was more than welcome. The idea to form a union began through word of mouth, when workers started talking with their coworkers about needing a union. From there, meetings took place, and in December 2007, the drivers, attendants and mechanics voted 37-12 in favor of joining Local 572.

"I've been in two different unions, so

## Go Union, Be Happy

AT FIRST STUDENT'S SAN FERNANDO LOCATION, people from all walks of life come in and out of the office, as they go to and from their shifts. A tall Italian man smiles and chats with everyone that passes by. He came to San Fernando from Italy 40 years ago. With great buoyancy and energy, Leonard Sain, nicknamed "Flaco" by his coworkers (Spanish slang for "skinny"), has simple, yet mean-

ingful advice for nonunion school bus workers: "Go to a union and be happy. If you don't have it, vote for it."

His coworker, fellow driver Irene Williams, also appreciates the Teamsters.

"With us from Laidlaw, we see the difference in how we were treated versus the First Student nonunion workers," Williams said. "We all get along. Now that we're all Teamsters and First Student employees, we [the former Laidlaw workers] want to bring them up to where we are; we've already had a Teamster contract for a while."

As shop steward, Williams has strong beliefs on how standards can truly rise in her industry.

"I encourage anyone and everyone interested in starting off in this industry to look for a union job, and I highly recommend the Teamsters. From my experiences, if you don't have a union, you don't get respect. Those Teamster jobs are out there," Williams said.

Rafael Gonzalez, another driver at the First Student San Fernando yard, agrees. Gonzalez was a Teamster for 20 years, working for Penske Trucking. Gonzalez's parents were both Teamsters, and when he started out in the working world, they advised him to find a union job. He listened.

"The union is someone to go to with problems to resolve them," Gonzalez said. "There is good communication with my local. Every time I call with a question, I get an answer."



I know that unions are good for benefits, wages and keeping the company in line. I came here and saw things were run differently and that we needed to improve our working conditions," Corey said.

Corey's coworker, Claudia Magana, is also looking forward to negotiating a contract for improvements in her workplace. Like many other workers in the school bus industry, the STA employees in Santa Clarita need improvements in pay, particularly to keep up with the high cost of living in California; more comprehensive and affordable health insurance; and a grievance procedure, among many other items commonly negotiated into Teamster contracts.

"Being Teamsters is good because we need fairness," Magana said. "I would like some changes, like air conditioning on the buses for the kids. It gets over 100 degrees in the summer in the valley."

At the STA location in Palmdale, the mechanics toil and troubleshoot the buses the drivers transport children in every day. They perform 45-day routine maintenance inspections and are responsible for repairs on more than 70 buses, taking care of any

issues the drivers bring to their attention. These mechanics, along with the drivers, are Teamsters with a Teamster contract, having ratified their first contract in October 2007.

"I like working here and haven't had any issues come up. The cost of my health benefits have gone down since we've been Teamsters, and the service has improved, which is a good thing because I have medical, dental and vision for my 5-year-old daughter," said Miguel Serrano, a mechanic with nearly a decade of experience.

### **Major Responsibility**

The life of a school bus or transit worker is demanding. Often on the job before 5 a.m., quitting time may not come around until 6 p.m. They are responsible for the safety and livelihoods of the passengers that they transport. If they are nonunion, chances are they make minimum wage, or only a little above; do not have health ben-



efits or pay an excessive amount for them if they do; are in a state of anxiety over whether they will get enough hours from week to week to make ends meet; and do not have any backing to speak out against unsafe or unfair working conditions. Yet professional drivers go through extensive training to obtain their licenses, as well as refresher courses and safety meetings.

"If you're just one person, your voice is not heard. You can't do much that way," said Ricardo Garza, a First Transit driver and 16-year Teamster. "You need two people, three people, four people and more! You need to unite."



# Southern Solidarity

## 1,000 Jacksonville Workers Join the Teamsters

They held signs that read, "Respect", "Fairness" and "Dignity." As the crowd grew larger, the chants got louder. Hundreds of Teamster school bus drivers, attendants and mechanics from across the nation had gathered in Florida for a School Bus Workers Congress and rally in support of Jacksonville First Student workers.

The support and determination paid off. By more than a 10-1 margin, more than 1,000 Jacksonville drivers, mechanics, aides, attendants and lot workers recently voted to join Local 512.

"I am proud of the Jacksonville First Student workers who took a stand for a better workplace," said Jim Hoffa, Teamsters General President. "Their victory demonstrates the power of workers across this nation to make a positive change in

their working lives. Not just in Jacksonville, but nationwide, school bus and transit workers are making the right choice for their future by joining the Teamsters."

Since the national campaign to organize private school bus and transit workers began in 2006, more than 10,000 such workers have joined the Teamsters. The Jacksonville First Student workers were the largest single group to date to join the union—1,055 workers at five Jacksonville-area yards became Teamsters in one day.

"These workers should be proud of the efforts, strength and unity they've shown throughout the organizing campaign," said Jim Shurling, President of Local 512.

"When the International Union, the Joint Councils and local unions work together, this shows there is nothing that cannot be accomplished for the working people of this country," said Ken Wood, International Vice President and President of Joint Council 75.

### Respect and Dignity

Corlene Isaac, a driver from Jacksonville, marched with her coworkers at the rally.

Not long after, she found herself at the 2008 Teamsters Unity Conference, speaking before thousands of Teamsters.

"Thank you to the Teamsters for your support. Thank you, President Hoffa, for coming to the great rally and standing with us. We deserve to be treated with respect, dignity and like professionals. That is why I want to join the Teamsters," said Isaac, to a standing ovation.

Rhonda Johnson, a school bus driver and mother of four, researched the union that she wanted to join. She and her coworkers had already considered joining other unions in the past. But Johnson spent a lot of time at the library and on the Teamsters web site, where she found out the Teamsters already represented thousands of school bus drivers across the country.

"I did my homework, and I am ecstatic that we have the Teamsters representing us," Johnson said. "We need better benefits, wages, respect and safety for the kids. And we needed a voice. Without having a union to back us, we would have no voice. As a Teamster, I see a better future for myself and for all of us."





## Global Determination

This victory is owed, in large part, to the steadfast determination of the Jacksonville workers to improving their working conditions. At the rally, the workers came together to talk to their manager, letting him know that they were joining together to form a union, as the bullhorns blared and school bus workers from around the country stood behind them.

The rally also took on a global presence. Several leaders representing the Transport and General Workers Union (T&G) section of Unite the Union came from the United Kingdom, where First Student's parent company, FirstGroup, is headquartered.

"I see the energy, enthusiasm and organization here. That's the most important thing," said Taj Salam, Chair of the Bradford

branch of T&G and a FirstGroup driver. "It's very important that you go out there and reach out to those people that don't know what this organization is all about, and you tell them the success stories."

"This is all of us, from all walks of life, meeting here because we do the same job and have the same goals," said Linda Hulse, a First Student driver from Trenton, New Jersey.

This global movement of workers is spreading across North America, as thousands more workers from California to Canada are joining the Teamsters. And with each contract that is negotiated, standards for bus workers everywhere are rising.

"I support the Teamsters for their record, because I heard about all the better working conditions that are brought through the Teamsters," said Donald Roberts, a driver with First Student in Jacksonville. "We were ready for that change."

*For more information on the Jacksonville workers and the school bus campaign go to [www.driveupstandards.org](http://www.driveupstandards.org).*

# Global Positioning

## Teamsters Meet with FirstGroup Management, Politicians and Labor in the UK

George Benedict traveled to the United Kingdom last year to tell his story. As a nonunion school bus driver for First Student in New York, Benedict saw the need for better working conditions at the company. He told this to the shareholders and top management of FirstGroup, First Student's UK-based parent company, at their Annual General Meeting (AGM). There, along with nearly a dozen First Student workers from across the United States, Benedict wasn't received all that favorably.

When Benedict recently returned to the UK, the situation had changed greatly.

"This year the atmosphere was very different," Benedict said. "I delivered the message that things were much better this year where I work than they were last year since we now have a Teamster contract. A loyal, consistent, unionized work force is good for the workers, but also good for the company."

Since the last meeting of Teamsters with FirstGroup management in the UK, thousands more First Student workers have joined the union and gained Teamster contracts, and as a result, better working conditions—including fair pay, more affordable health insurance, safer equipment and fairness on the job.

## World of Difference

Benedict, along with International Vice President Fred Potter and representatives from the Teamsters Organizing and Strategic Research and Campaigns Departments, met with elected officials of the T&G section of Unite the Union, which represents FirstGroup's UK employees.

The group met with Members of Parliament, who pledged to continue monitoring FirstGroup's actions.

Following the AGM, Benedict and the Teamsters delegation spoke with William Gould, former chair of the National Labor Relations Board under the Clinton administration, and now the independent monitor for FirstGroup's Freedom of Association Policy Compliance program. His role is to ensure that U.S. management complies with the company's freedom of association policy.

FirstGroup adopted this policy and its Compliance Monitoring Programme following the 2007 AGM. While opposition by First Student management to organizing has not been completely wiped out in the US, relations with the company have improved over the past year, as evidenced by the growing number of workers who are making the choice to become Teamster members.

"We felt we accomplished a lot in conveying our message to FirstGroup and the Members of Parliament and were well received," Benedict said. "And the support of the other unions and the politicians was unbelievable. There is no question that they are very much on board with the Teamsters and will support us 100 percent."



# Hitting The Jackpot

## Taj Mahal Workers Win Teamster Representation

**W**hen looking for union representation, Will Turner and his coworkers at the Trump Taj Mahal Casino Resort in Atlantic City, New Jersey, let their fingers do the walking.

"We went into the Yellow Pages and looked under 'union' and called around," Turner said. "We were pleased when we found the Teamsters."

What started with one phone call to Teamsters Local 331 in Pleasantville ended with a vote by nearly a 3-1 margin in favor of Teamster representation for the 22 convention and trade show employees at the Taj Mahal.

### Luck of the Draw

After contacting several unions, and not finding what they were looking for, the workers met with Marcus King, Trustee of Local 331. King sat down with the organizing committee and presented Teamster contracts, including the contract for the Trump Plaza loading dock workers, which the Taj Mahal workers had heard about.

"We were impressed with the representation the Teamsters had to offer," Turner said.

"They really wanted this, they wanted to become Teamsters by going to a vote as soon as possible," King said of the short election period. "Wages and representation

were huge factors and we're looking forward to negotiating a strong contract for our new members."

### Eager to Unite

The new Teamsters in the Convention Services department work physically demanding

jobs. They're responsible for hauling thousands of pounds of chairs down long hallways, where they set up and break-down events ranging from conventions to concerts to trade shows. They operate heavy equipment and work a variety of schedules, all to

make the Atlantic City casino and hotel experience more enjoyable.

"It's very strenuous and the pay is ridiculous compared to what we do," said Edwin Keyes, a three-year employee.

For the Taj Mahal workers, the time to unite as Teamsters couldn't have come soon enough and voting for the Teamsters was anything but a gamble.

"We knew things weren't right and that's when we got to looking," Keyes said. "We are pleased we decided on the Teamsters."

***"Wages and representation were huge factors and we're looking forward to negotiating a strong contract for our new members."***

—WILL TURNER, TRUMP TAJ MAHAL CASINO RESORT WORKER



#### LOCAL 662

## AmeriCold Logistics

**A**meriCold Logistics warehouse workers in Plover, Wisconsin recently voted overwhelmingly, 52-14, to join Local 662 in Eau Claire, Wisconsin. There are 82 workers in the unit.

"This election was about the ability of these workers to have their employer hear their issues, because they're falling on deaf ears," said Rick Skutak, a business agent with Local 662. "As Teamsters, they will have the opportunity to take part in the bargaining process and make a positive change at work."

AmeriCold Logistics is the largest provider of temperature controlled warehousing and distribution services in the United States. The company has more than 6,000 associates in 100 warehouse locations. The Teamsters represent more than 1,000 AmeriCold workers nationwide.

#### LOCAL 727

## LifeScan

**R**ecently, phlebotomists at LifeScan voted 24-8 to join Local 727 in Chicago.

"The Teamsters are very happy to welcome the LifeScan workers to the union," said John T. Coli, Local 727 Secretary-Treasurer. "This is a great victory for the Teamsters, but more importantly for our new members. Now that they are Teamsters, they have the strength of 1.4 million brothers and sisters behind them."

The phlebotomists are high-

ly trained professionals who work around the Chicagoland area collecting blood specimens from patients and delivering samples to the LifeScan Laboratory in Skokie, Illinois.

"This is a great example of what can be accomplished when the local and the Joint Council's organizing departments work in unison," Coli said.

LifeScan Laboratory provides laboratory services for long-term facilities, hospitals, physicians, clinics and home health care agencies.

#### LOCAL 283

## Detroit Medical Center

**R**ecently, drivers at Metro Transportation in Detroit gained a strong and united voice by joining Local 283. The bargaining unit is made up of 23 shuttle drivers, who primarily shuttle staff and patients throughout the campus of the Detroit Medical Center.

"This was the second attempt to organize the workers, who voted against unionizing in the first election," said Todd Lince, an organizer for the Wyandotte, Michigan-based Local 283. "After the drivers realized they were getting the short end of the stick, they stuck together for a resounding victory. This time, they voted in favor of becoming Teamsters by a 2-1 margin."

Marian Novak, a Joint Council 43 organizer, was instrumental in the organizing efforts. She kept the organizing committee members focused on the tasks at hand and followed the International Union's model for implement-

**"This election was about the ability of these workers to have their employer hear their issues, because they're falling on deaf ears."**

—RICK SKUTAK, LOCAL 662 BUSINESS AGENT

ing a successful campaign.

Kevin Moore, Local 299 President, helped to further influence the drivers to vote for Local 283 by emphasizing that the Metro Transportation drivers at Detroit Metropolitan Airport were already enjoying the benefits of a strong Teamster contract.

#### LOCAL 714

## South Holland Police Department

**S**outh Holland, Illinois police officers voted recently to join the Local 714 in Berwyn, Illinois. There are 35 members in the bargaining unit.

Business Agent Barbara Cornett said the officers were eager to join the Teamsters.

"They wanted a union that would fight harder for them, and the Teamsters are that union," Cornett said. "Wages and working conditions are the officers' top issues."

#### LOCAL 959

## Northern Air Cargo

**F**light crewmembers from Anchorage, Alaska-based Northern Air Cargo voted to join Local 959.

Sixty-five percent of the 33-member unit voted for the Teamsters in the National Mediation Board election. Northern

Air Cargo is an all-cargo airline with scheduled flights to the most destinations in Alaska. Its fleet consists of 737-200s and DC-6s.

Northern Air Cargo's flight crewmembers will be part of the Teamsters growing Airline Division. In March, the Division added United Airlines maintenance technicians to its roster.

#### LOCAL 959

## Wasilla Police Department

**P**olice Department employees in Wasilla, Alaska have voted to join the Teamsters. The bargaining unit of 48 workers joins Local 959 in Anchorage.

Employees voted 29-9 to join the Teamsters and their election was recently certified.

#### LOCAL 170

## Angelica Corporation

**D**rivers with Angelica Corporation recently voted 14-5 in favor of joining Local 170 in Worcester, Massachusetts.

"Our next step is to sit down with the 20 new members and prioritize their proposals, then set up the negotiating session with the company for their first contract," said Mike Hogan, Secretary-Treasurer of Local 170.

Angelica Corporation workers provide linen and textile rental, cleaning and delivery to hospitals and health care professionals.

# Strength Through DIVERSITY

## National Caucuses Shape Union for the Future

**IN 2006**, the International Brotherhood of Teamsters made history by becoming leaders not only of labor, but of diversity, when delegates at the 27th International Convention unanimously voted to add language celebrating, promoting and protecting diversity to the Teamsters Constitution.

The vote set a landmark precedent among other labor organizations and made a statement that the Teamsters Union truly cares for and about all of its members.

Included in the constitution was a commitment to the development of organizations that value and encourage "women, individuals of various sexual orientations, and members of racial, cultural, and ethnic groups in the policymaking and leadership roles at all levels."

Today, the Teamster Union continues to be a leader in promoting diversity and acceptance through four major caucuses which act as educational and outreach organizations.

"The four caucuses are a valued part of our organization because they promote diversity, understanding, self-worth and unity within the Teamsters Union," said Cheryl Johnson, Director of the Teamsters Human Rights Commission and International Vice President. "Since its beginning, the Teamsters has been diverse and we continue to celebrate and encourage that diversity through the International Teamsters Women's Caucus, the Teamsters National Black Caucus, the Hispanic Caucus and the GLBT Caucus."

Fred Nowling, a 30-year Teamster with Sikorsky, is a chair for the Eastern Region of the Teamsters National Black Caucus (TNBC). In this role, he oversees the local chapters in the east and takes pride in being active with the caucus.

"I love to do this, to share my experiences and help spread education among our members," Nowling said. "I had to move up the hard way, working the cotton and tobacco fields down

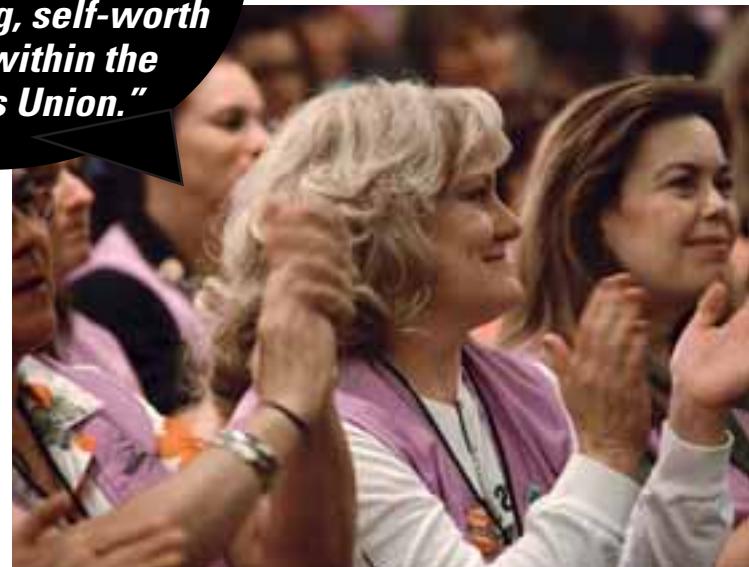
south. I want to promote education so that others don't have to go through struggles that I went through."

### Greater Inclusion

The TNBC was formed in 1971 to increase participation, uphold the principles of the Teamsters' movement and foster the opportunity for all Teamsters to serve in leadership capacities. TNBC members are part of a nationwide organization working within the Teamsters to provide a stronger voice in the workplace and the union.

"We need to recognize that we're all Teamsters first, that being Teamsters is what allows the caucuses like the TNBC to function, and that there is great potential for growth," said Al Mixon, Chair of the TNBC and Secretary-Treasurer of Local 507 in Cleveland. "We

***"The four caucuses are a valued part of our organization because they promote diversity, understanding, self-worth and unity within the Teamsters Union."***





have diversity in our union, now we need to embrace it and work toward greater inclusion."

The role of the TNBC has taken on greater significance over the years. According to the Bureau of Labor Statistics, in 2007, black workers were more likely to be union members than whites, Asians or Hispanics. Within these groups, black men had the highest union membership rates. Nearly one-third of the Teamsters' membership is black.

### Embracing Diversity

At the 2006 International Convention, Mixon had the opportunity to meet with Teamsters General President Jim Hoffa to work on the article to the Teamsters Constitution that promotes and protects diversity within the union.

"Antonio Christian—the Recording Secretary with Local 853—and Mary Lou Salmeron—the President of Local 986—and I met with President Hoffa. We were proud to be part of

the historic process that embraces diversity in our union," said Mixon, who has been active with the TNBC for 22 years, and with Local 507 for 32 years.

Recently, at the 33rd annual TNBC Conference in St. Louis, a series of workshops, panels and educational programs were presented to delegates from the various chapters of the TNBC across North America. It is there that the election of officers to the TNBC took place. The newly elected Executive Board consists of Mixon; Harvey Jackson, President of Local 1150 in Stratford, Connecticut; Virginia Barnes, Recording Secretary for Local 122 in Boston; and Nate Jackson, President of Local 1196 in Memphis, Tennessee. The mission for this newly elected board will be to increase communication and participation; increase funding for the TNBC; provide educational resources for the membership; establish a scholarship program for youth; and establish guidelines for a mentoring program for the regions and chapters, among other goals.

A main goal is to build more regional chapters to be better able to reach out, educate and provide direction in the workplace and local unions. As Mixon says, "Our vision is victory—to see our numbers increase."

Tom Keegel, Teamsters General Secretary-Treasurer, was present at the 33rd TNBC Conference and spoke to members about how he shares that vision, and about what the union is doing to get out the vote for Sen. Barack Obama in November's election.

"We need to organize workers, which makes us powerful. We need to elect a president who cares about working people," Keegel said in the opening session.

### Forward to the Future

Harvey Jackson, the Vice Chair of the TNBC, believes that any challenges in the future can be overcome through the involvement of the Teamsters membership in their union.

"The Teamsters has been the brand name for unions for over 100 years and we have an obligation to make it even better—to train our members to become good leaders and address localized issues that minorities face," Jackson said.





***"In this day and age of change and acceptance, the Teamsters has been in the forefront of change and acceptance. The Teamsters are diverse and have been leaders in diversity."***



At the TNBC conference, a resolution was approved by the TNBC Executive Board and presented to the delegation of attendees to take back to their regional members, for the election of Barack Obama for President of the United States.

"This is a changing country and a changing work force. There's color and race, but also age barriers, language barriers and globalized competition. We have to adequately prepare for the needs of our members and to address the changing face of America," Jackson said. "We're headed in the right direction."

### **Fighting Discrimination**

When German Vazquez took over as President of the International Teamsters Hispanic Caucus, he had one goal in mind: to unify members through outreach and education.

So far, Vazquez has been successful.

Vazquez, Secretary-Treasurer of Local 901 in Puerto Rico, immediately made changes to the caucus by encouraging members and groups to meet across the country instead of at one, large meeting in a centralized location.

"This is an effort to get the chapters to unify and to reach more people," said Ruben Torres, the Secretary-Treasurer for the International Hispanic Caucus. "It has been working. The enthusiasm for having that minor change has been tremendous."

While the Hispanic Caucus has always seen strong numbers, Torres said in recent months the group has grown by leaps and bounds with more parties showing interest nearly every day. New chapters are starting soon in Colorado and Michigan.

"In this day and age of change and acceptance, the Teamsters

has been in the forefront of change and acceptance. The Teamsters are diverse and have been leaders in diversity," Torres said.

The primary goal of the International Teamsters Hispanic Caucus is to be an educational tool for members around the United States, Canada and Puerto Rico.

"The major challenge for the Hispanic community is still unfortunately racism and racial profiling. Those are major hurdles, along with a language barrier," Torres said. "The Hispanic Caucus will combat these through education, membership and the education of our youth."

Outreach to Hispanic youth is especially important because in America today, Hispanic youth are acting as translators for their parents. Teaching children their rights is of the utmost importance, Torres explained.

"The bottom line is that we are an organization that educates. We are an organization that promotes inclusion and I think that's something that's very important to the Hispanic cause around the country," he said.

### **On the Move**

Changes are also taking place at the International Teamsters Women's Caucus, where the goal is clear: empower Teamster women through networking, health education and union involvement.

Taking the lead in the endeavor is Diane Helf, a business agent for Local 20 out of Toledo, Ohio, who was elected president of the ITWC earlier this year. Helf serves on the committee for the conference, the Human Rights Commission, and is very active in her own local union.

"Women and their needs are our focus. Women have unique concerns, which are different than the concerns of the black caucus, which are different than the concerns of the Hispanic Caucus," Helf said. "I believe that we need to be able to focus on women's issues and have a place to go to get information when you need it. I think that's what the ITWC will provide."

Among the ideas Helf and other Teamster women have proposed is a revamping of the ITWC web site to allow blogs, e-mails



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and other electronic messages to flow more freely. In fact, technology, combined with new ideas, will be at the center of the caucus.

"I'm really excited. I think it's time for new, fresh ideas," said Cheryl Johnson, who has stepped down from her role as president of the caucus. "With blogging and with e-mail, they're going to be able to network easier."

Although Johnson and six of her long-serving counterparts have handed reigns over to a new leadership, they will continue to act as advisors. The caucus, Johnson added, is a perfect example of women working together to empower and help each other.

As for Helf, she is excited for the new role and looks forward to changing the lives of Teamster women throughout the United States and Canada.

"Women are on the move," she said. "We're getting involved and taking the lead in our union."

### Teamster PRIDE

Also trying to combat stereotypes and overcome injustice is the International GLBT (gay, lesbian, bisexual, transgender) Caucus, headed by Bill Munger, the Eastern Region Training Coordinator for the Teamsters Training and Development Department and a 30-year member of the BLET. Though numbers are low, they are slowly increasing thanks, in part, to education and awareness.

"We're hoping to build membership and to raise awareness about the issues our GLBT members face in the workplace," Munger said. Many in the GLBT community must put up with violence and discrimination on a regular basis, he said.

As a supporter of diversity, the Teamsters Union proudly welcomes and supports all sexual orientations, something in which Munger said Teamster members can and should take pride.

Like the other caucuses, the GLBT Caucus addresses unique concerns had by GLBT members through networking, communication, outreach, support and education.

**"Women are on  
the move. We're getting  
involved and taking the  
lead in our union."**



Unlike the other caucuses, however, anyone—regardless of whether or not they are a Teamster—can join the International Teamster GLBT caucus. All sexual orientations are accepted and welcome.

### Diverse Yet Unified

Openly accepting all people from all walks of life is a goal that the Teamsters Union has not only met, but prides itself on.

"The only way you can learn more about diversity is through networking and education. Through the caucuses, I know we are a stronger union," Johnson said. "I know in my heart that everyone has something valuable to offer their union and I know that diversity matters."

It is because of the organization's varied membership that the Teamsters are strong, and that strength will continue to push forward as a diverse, yet unified union that marches on into the 21st Century and beyond.

**R**ECENTLY, HUNDREDS OF ST. LOUIS Teamsters and their families rallied in downtown St. Louis to show support for Anheuser-Busch workers nationwide in the wake of the purchase of the iconic American beer company by Belgium-based brewing giant InBev. Rally participants, along with Teamster trucks, overflowed Kiener Plaza next to the famous St. Louis Arch.

"For more than a hundred years, Teamsters and many other hardworking union members have made Budweiser and Anheuser-Busch the great American brand that it is today," said Jack Cipriani, Director of the Teamsters Brewery and Soft Drink Conference and International Vice President. "Good jobs like those at Anheuser-Busch help our local communities grow."

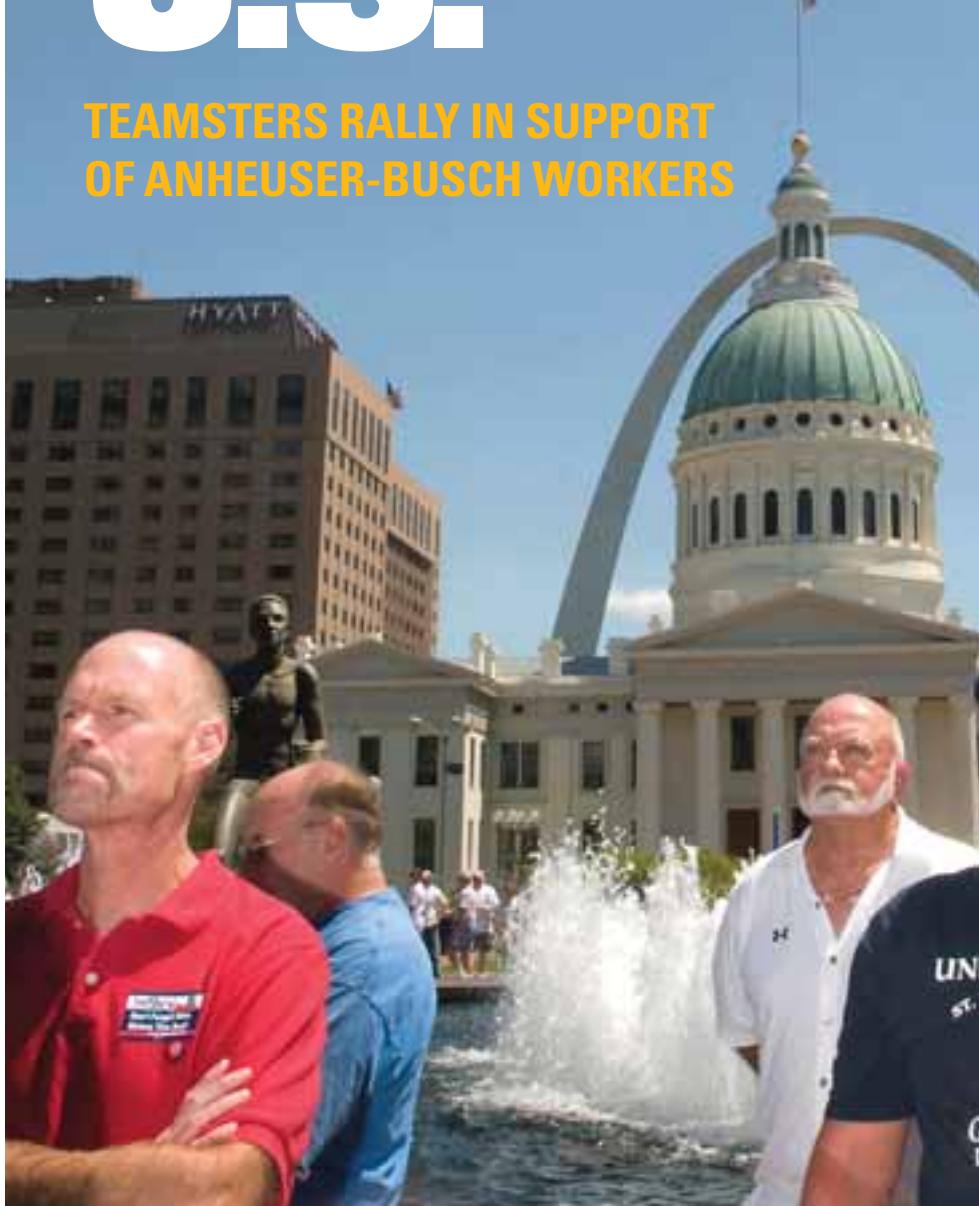
The Teamsters Brewery and Soft Drink Workers Conference represents more than 7,000 employees of Anheuser-Busch Companies Inc. in the United States and Canada. The rally was co-sponsored by Missouri Jobs with Justice and included speakers and participants from InBev unions worldwide, the St. Louis Labor Council and employees from all 12 Anheuser-Busch breweries in the United States.

#### **Global Alliance**

At the rally, Union leaders representing InBev employees worldwide including Europe, Latin America and Canada announced the formation of a global alliance of InBev workers through the International Union of Food Workers (IUF). Paul

# THIS BUD'S FOR U.S.

**TEAMSTERS RALLY IN SUPPORT  
OF ANHEUSER-BUSCH WORKERS**





Garver of the IUU stated, "InBev workers are building a strong, unified voice to ensure fair treatment at the breweries and in our communities."

Garver, along with union leaders from Brazil and Canada, participated in a community forum the day before the rally. At the meeting, each union leader described their prior experiences with InBev management.

Roger VanVlasselaer, a union leader from Belgium, related how his union and others in Europe have kept communicating about InBev's tactics and how that strategy ultimately benefited rank-and-file members.

"In Belgium and in Europe we have already experienced what globalization can do for workers' rights," VanVlasselaer said. "We managed to organize ourselves and succeeded with actions against the company and negotiations with the company in order to maintain working conditions and salaries for our workers. We shall gladly share our experiences with the Teamsters and other unions."

### Show-Me State

Missouri State Representative Clint Zwiefel (D-MO), a member of Local 686, and U.S. Rep. Russ Carnahan (D-MO) spoke at the rally to show their commitment to Teamsters and all of organized labor at Anheuser-Busch.

"The homes, churches and grocery stores in your community are the result of your hard work," Zwiefel said. "You are what makes Missouri work, each and every day."

The promises InBev has made publicly include keeping St. Louis as the AB-InBev North American headquarters and keeping open all 12 breweries in the United States. During contract negotiations, the union plans to press Anheu-

er-Busch to stick to this commitment.

But General Secretary-Treasurer Tom Keegel reminded rally attendees that, "Anheuser-Busch and Bud owe their success to union workers here today: the Machinists, Change to Win unions, the St. Louis Building Trades and the St. Louis Labor Council as well as my own brother and sister Teamsters. We are all here to call on InBev to keep the promises it has made. St. Louis is the city that the world identifies with Budweiser and we want it to stay that way."

### Bargaining Priorities

The St. Louis rally was held just two days before the beginning of national contract bargaining meetings in Cincinnati. Representatives from each of the 12 U.S. breweries are part of the negotiating team and negotiations are expected to last several weeks. And after meeting with the European and Latin American union representatives, the Teamsters negotiating team have a re-energized plan.

"Our priorities are protecting good-paying American jobs and their communities, as well as preserving health care and pension benefits for all workers," said Cipriani, who will lead the negotiations. "The Anheuser-Busch contract is the cornerstone to the company's value to St. Louis and other communities. The \$3.5 billion in wages and benefits generated by Anheuser-Busch provide an engine for local communities. The Teamsters contract will be the first real measure of the Anheuser-Busch-InBev commitment to the communities."

Hundreds of working men and women at the rally included long-time Anheuser-Busch employees, many of whom have spent their entire working life at the St. Louis brewery.

Frank Calcaterra, a 30-year Anheuser-Busch employee and member of Local 6 in St. Louis, said, "I don't think anyone expected the takeover by InBev, especially in this country. Since I am close to retirement, I am very concerned about the continuation of health care benefits."

"I want to make sure that all of the younger employees get the same benefits I am going to get when I retire," said Tommy Davis, a 30-year employee of the St. Louis brewery. "I just want InBev to keep their promises."



# A Healthy Contract

## NURSES WIN WITH LOCAL 332

Local 332 President Nina Bugbee saw the writing on the wall 18 months ago. A new administration known for downsizing staff at other hospitals had just taken the helm at Genesys Regional Medical Center in Michigan.

"They had a reputation for being anti-union," Bugbee said. "They were just coming into the hospital to increase their profit margins."

The job cuts started immediately with the new administration, Ascension Health System, terminating nonunion employees and slashing benefits packages for others.

"I knew we were next on the list," Bugbee said. "They were

dead set on eliminating retiree health care, longevity pay for years of service, double time and other overtime opportunities."

With the nurses' four-year contract set to expire on May 9, 2008, Bugbee started asking to meet with the hospital CEO or president. She asked four or five times, but they kept saying no.

"They were just stonewalling," Bugbee said. "So we had to do something else to get their attention."

### Turning Point

So Bugbee turned to the International Union for help. A rally was held a few days after the contract expired with General President Jim Hoffa.

"The rally with President Hoffa was the turning point in this," Bugbee said. "We shocked them because they did not think a big union's national president would support a local union. We had a magnificent rally and that tripped the trigger."



“The day after the rally, the CEO called mediation services to see if I would come in and meet with him,” Bugbee said.

“The CEO apologized to me and said he realized that if he did not have a relationship with the Teamsters, the hospital would not remain viable,” Bugbee said. “And that was the turning point.”

### **The Contract**

The negotiation process got easier, with a tentative four-year contract reached that gave the nurses everything they wanted, including nurse-to-patient ratios that are important for safety and efficiency, and wage increases over the four years—4 percent the first year, 5 percent the second year and 3 percent in the final two years of the contract.

The nurses voted over two days on the contract, which was approved by an overwhelming margin of 905-3.

The nurses were ecstatic and the cheering began soon after. Then the cell phones came out as the good news was spread to those who had not yet been notified.

The nurses' struggle was covered from start to finish by local media. On the day the new pact was approved, The Flint Journal interviewed several nurses as they went to work.

“I’m elated,” Susan Hagerman, a nurse in acute care, told the newspaper. “We have all worked so hard. It was a long, hard fight. Right now I can’t find the words.”

Bugbee said the nurses appealed to the media to educate the community on their fight and they had a lot of support.

### **Backward Priorities**

“In a time when health care is becoming big business, it is essential to have a union to ensure safe nurse-to-patient ratios,” said Registered Nurse Sharon Lucero. “As a Teamster RN of 25 years, I have first-hand experience of the benefits that organized labor has in the work force.”

Hoffa said this was a classic case of “backward corporate priorities.”

“To obtain even higher profits, Ascension went after our Teamster nurses at the expense of patient care in the community,” Hoffa said. “But the nurses stood their ground, gaining a great contract that benefits them and their patients. The contract maintains nurse-to-patient ratios greatly needed for safety.”

### **Reaping the Rewards**

Bugbee looked back at the two previous three-year contracts the Teamsters negotiated. The first addressed deplorable working conditions. The second contract, in 2004, established a nurse-to-patient ratio, incentive bonuses, weekend bonuses and double time.

“For this contract, the nurses were in a position to have the best contract in the area, and we were able to pull it off,” Bugbee said. “We kept everything we had before.”

“The new management came in very heavy-handed, calling for all these eliminations, like retiree health care for nurses, double time and overtime opportunities,” Bugbee said. “We managed to get all of that off the table.”



# Clean & Safe Ports

## Investment in Green Economy Will Reduce Dependence on Foreign Oil, Create Jobs

Teamsters General President Jim Hoffa joined more than 3,000 environmental, community and labor advocates in July at a march and rally to call for clean air and good jobs at the Port of Oakland in California through the implementation of a comprehensive clean trucks program.

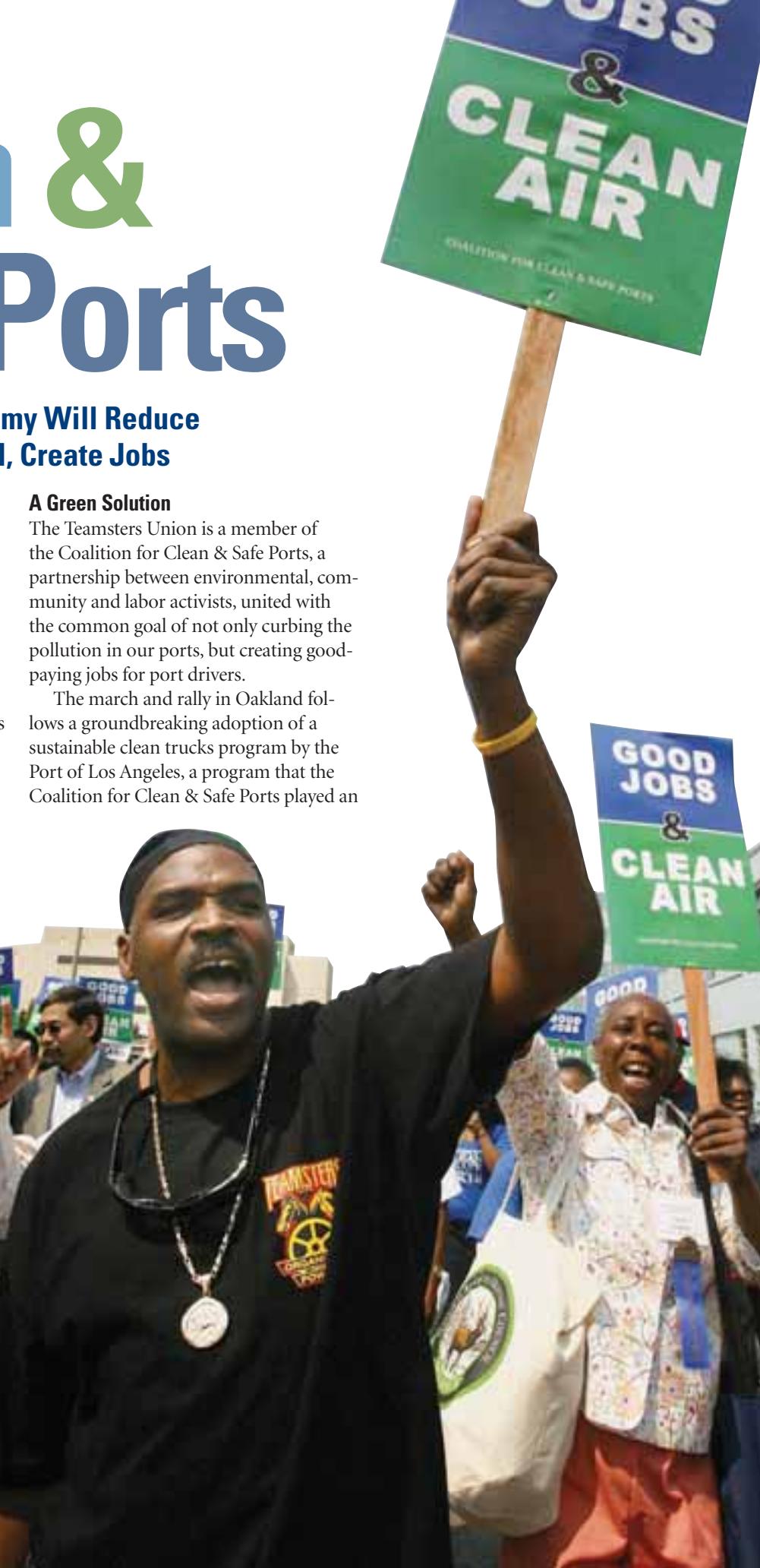
The call comes at a critical time for port drivers who have seen their paychecks shrink as the cost of diesel fuel continues to rise.

As independent owner-operators, port drivers in Oakland face an uncertain future. They must choose between maintaining their vehicles and supporting their families—a choice that no one should have to make.

### A Green Solution

The Teamsters Union is a member of the Coalition for Clean & Safe Ports, a partnership between environmental, community and labor activists, united with the common goal of not only curbing the pollution in our ports, but creating good-paying jobs for port drivers.

The march and rally in Oakland follows a groundbreaking adoption of a sustainable clean trucks program by the Port of Los Angeles, a program that the Coalition for Clean & Safe Ports played an



integral part in forming.

The program calls for the replacement or retrofitting of the entire fleet of 16,000 trucks that service the Port of Los Angeles to meet 2007 U.S. Environmental Protection Agency diesel truck emissions standards by 2012. Trucking companies that service the port are required to purchase the new fleet, not the independent drivers. The port drivers would then be hired by the trucking companies as direct employees to operate the vehicles. As direct employees, the drivers would have the opportunity to earn better wages and receive benefits.

The event, co-sponsored by the coalition, the California Labor Federation and the Central Labor Council of Alameda County, began with a rally outside the state labor federation's annual meetings. Teamsters General Secretary-Treasurer Tom Keegel spoke to more than 400 delegates from various unions before leading them out to the staging area for the march where both Los Angeles Mayor Antonio Villaraigosa and Oakland Mayor Ron Dellums addressed the crowd.

"We must maintain the integrity of good jobs for our truck drivers who need to have a real living wage—not a false wage that continues to perpetuate poverty and pollution," Dellums said. "I want to say here that you were first, but Oakland is going to be second."

## Finding Solutions

The mayor's statement came as welcome

news to the port drivers participating in the event who have been trying to find a solution to the difficult situation.

"Drivers like me need change for our families," said Lorenzo Fernandez, an Oakland port driver. "I can't keep food on

jobs and clean air. He stressed the need for a comprehensive long-term program focused on exploring and developing alternative sources of energy as a solution to the crisis facing our country for working Americans hit hard by rising gas prices

***"We realized, along with our friends in the coalition, that cleaning up the environment and creating good jobs are goals that are not mutually exclusive."***

—GENERAL PRESIDENT JIM HOFFA

the table let alone maintain my truck on the rates we get paid."

Following the march through downtown Oakland, Hoffa addressed the thousands of participants at a rally in Jack London Square in the shadow of the Port of Oakland.

"Port drivers are on the front lines of this fight for clean air and good jobs," Hoffa said. "They toil away every day earning poverty level wages and can't earn enough to pay for the maintenance of their older trucks which are pumping out toxic pollution. We realized, along with our friends in the coalition, that cleaning up the environment and creating good jobs are goals that are not mutually exclusive."

## A Green Economy for a Better Tomorrow

The following day, Hoffa gave the keynote speech to labor and environmental activists at a summit in Oakland on good

and a collapsing economy.

"We are not going to drill our way out of the energy problems we are facing," Hoffa said. "We must find a long-term approach that breaks our dependence on foreign oil by investing in the development of alternate energy sources like solar, wind and geothermal power."

Hoffa also said that by investing in green energy solutions, the nation will reap the benefits of curbing its dependence on foreign oil through a revitalized economy with the creation of millions of new jobs in the rapidly growing industry.

"Our economy is in shambles. Gas has been as high as \$5 a gallon. The dollar has collapsed. Inflation is on the rise. Americans are seeing their paychecks shrink. Their family health care is being slashed," Hoffa said. "Finding a long-term solution has a tremendous upside. It will be environmentally friendly and will serve as a much-needed boost to our sagging economy."



UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK  
 88 CIV. 4486 (LAP)  
 MEMORANDUM AND ORDER

UNITED STATES OF AMERICA,  
 Plaintiff,  
 v.  
 INTERNATIONAL BROTHERHOOD  
 OF TEAMSTERS,  
*et al.*,  
 Defendants.

APPLICATION NO. 128  
 RE: FRANCIS J. GILLEN

**LORETTA A. PRESKA, United States District Judge:**

Application 128 of the Independent Review Board (“IRB”) of the International Brotherhood of Teamsters (“IBT”) concerns disciplinary action taken against Francis J. Gillen (“Gillen”), a member of Local 500 in Philadelphia and an IBT International Vice President. Based on the recommendation of the IRB, Gillen was charged with failing to cooperate with the IRB by intentionally giving false testimony during an IRB sworn examination. The charge was upheld by the IBT after a trial before a hearing panel and adoption by the General Executive Board (“GEB”). Following submission of objections by Gillen, the IRB found that the IBT’s decision upholding the charge against Gillen was “not inadequate.”

For the reasons set forth herein, Application 128 is granted, and the IRB’s “not inadequate” finding with regard to the charge against Gillen is upheld.

## BACKGROUND

**A. Proceedings Regarding the Charge Against Gillen**

On April 26, 2007, the IRB referred to the IBT its charge that Gillen had intentionally given false testimony during a February 1, 2007 IRB sworn examination in violation of Article II, Section 2(a), and Article XIX, Sections 7(b)(1)-(2) and 14(i) of the IBT Constitution. Specifically, Gillen was charged with giving false testimony regarding his knowing association with a barred member, Thomas Ryan, who had been permanently barred from the IBT on February 18, 1999. IBT General President James P. Hoffa filed the IRB-recommended charge against Gillen and appointed a hearing panel of three GEB members to hear the charge against Gillen, all of whom were IBT International Vice Presidents.

By letter dated May 24, 2007, IBT President Hoffa notified Gillen that a hearing on the charges was scheduled for July 11, 2007. The appointed IBT panel conducted a hearing on July 11, 2007, during which testimony was heard from Gillen, who was represented by counsel, Gillen’s wife, Ginny Gillen, and four other witnesses on Gillen’s behalf.

By letter dated August 3, 2007, the IBT notified Gillen that the GEB had adopted the Report and Recommendation

of the hearing panel (1) holding that Gillen had intentionally given false testimony during his February 1, 2007 sworn examination, and (2) recommending that Gillen be suspended from the IBT membership for a period of three years and that he be barred from seeking or holding IBT office or employment for a period of five years (the “IBT Decision”).

Gillen submitted his objections to the IBT Decision to the IRB on August 31, 2007, asserting that (i) the proceedings before the hearing panel violated the IBT Constitution and that he had theretofore been denied a full and fair hearing; (ii) the penalty imposed was excessive; and (iii) the evidence was insufficient to support the charge. By letter dated September 11, 2007, the IRB advised Gillen of its determination that the IBT Decision was “not inadequate.”

**B. Application 128**

On September 25, 2007, the IRB submitted Application 128 to this Court seeking a ruling upholding its September 11, 2007 finding that the IBT Decision was “not inadequate.”

The Consent Decree provides that the IRB shall monitor disciplinary actions taken by any IBT entity on IRB-recommended charges to determine whether the charges were “pursued and decided” by that IBT entity “in a lawful, responsible, or timely manner” and whether the resolution of those charges is “inadequate under the circumstances.” Consent Decree ¶ I(7).

Although the Consent Decree contains no express procedure by which a union member disciplined by an IBT entity on IRB-recommended charges may appeal such a “not inadequate” determination to this Court, the IRB has followed a practice of facilitating judicial review of its “not inadequate” determinations when a charged party demonstrates his intention to seek review of a “not inadequate” finding. *See Sombretto v. IBT*, 01 Civ. 9285 (LAP), 2003 WL 252156, at \*4 (S.D.N.Y. Feb. 3, 2003) (“This Court may also review IRB determinations that union discipline is “not adequate” when requested by the IRB.”); *see also United States v. Boggia*, 167 F.3d 113, 120 (2d Cir. 1999) (upholding district court’s affirmance of IRB “not inadequate” determination). Accordingly, the IRB submitted Application 128, by which the IRB requests that the Court adopt the IRB’s determination that the IBT handling of the charge against Gillen was “not inadequate.”

For the reasons set forth below, the IRB’s application is granted.

## DISCUSSION

**I. STANDARD OF REVIEW**

The standards governing review of IRB disciplinary decisions are well established. This Court reviews determinations made by the IRB under an “extremely deferential standard of review.” *United States v. IBT (“Carey & Hamilton”)*, 247 F.3d 370, 379 (2d Cir. 2001); *United States v. IBT (“Simpson”)*, 120 F.3d 341, 346 (2d Cir. 1997); *United States v. IBT (“DiGiralamo”)*, 19 F.3d 816, 819-20 (2d Cir. 1994), *cert. denied*, 513 U.S. 873 (1994). The IRB Rules, which were approved by

this Court and the Court of Appeals, provide for review of decisions of the IRB under “the standard of review applicable to review of final federal agency action under Administrative Procedure Act.” IRB Rules ¶ O. *See United States v. IBT* (“IBR Rules”), 803 F. Supp. 761, 805-06 (S.D.N.Y. 1992), *aff’d as modified*, 998 F.2d 1101 (2d Cir. 1993). Under this extremely deferential standard, an IRB decision may be set aside only if it is “arbitrarily, capricious, an abuse of discretion, or otherwise not in accordance with law.” *Carey & Hamilton*, 247 F.3d at 380 (quoting 5 U.S.C. § 706(2)(A)).

## II. THE IRB’S DETERMINATION OF LIABILITY

Applying these standards, the IRB acted well within its discretion when it upheld the IBT Decision finding that Gillen intentionally gave false testimony in an IRB sworn examination and that Gillen should be suspended from IBT membership for three years and barred from holding any IBT office or employment for five years.

### A. The IRB’s Decision Upholding the IBT’s Finding that Gillen Intentionally Gave False Testimony Was Not Arbitrary and Capricious

Section 14(i) of Article XIX of the IBT Constitution provides that “[a]ll officers, members, employees, and representatives of the International Union and its affiliated bodies shall cooperate fully with the Independent Review Board in the course of any investigation or proceeding undertaken by it.” Section 14(i) further states that an “[u]nreasonable failure to cooperate with the Review Board shall be deemed to be conduct which brings reproach upon the Union, and which is thereby within the Review Board’s investigatory and decision authority.”

Gillen was charged with bringing reproach upon the IBT by intentionally giving false testimony during a February 1, 2007 IRB sworn examination with regard to his association with a barred member, Thomas Ryan (“Ryan”).<sup>1</sup>

There is no dispute in the record that (1) Ryan was barred from IBT membership on February 18, 1999; (2) Gillen had numerous contacts with Ryan in 2000 and 2001; and (3) despite these contacts and his knowledge of Ryan’s bar, Gillen testified under oath on February 1, 2007, that he had not had contact with Ryan in violation of the permanent bar.

First, the evidence showed that Ryan, a member of Local 107 in Philadelphia, Pennsylvania, was permanently barred from the IBT on February 18, 1999, for violating the terms of a previously-issued five-year suspension from the union. *See* IRB Ex. A, at 5-6; IRB Exs. 19-20, 21, 24. Gillen was

aware of Ryan’s bar because it had been reported in the July/August 1999 issue of the Teamster Magazine (IRB Ex. 1, at 110-11; IRB Ex. D, at 171; IRB Ex. 22), and knew that as a result of the permanent bar, he was prohibited from associating with Ryan (IRB Ex. D, at 171).

Second, there is no dispute in the record that Gillen had numerous contacts with Ryan in 2000 and 2001. Gillen admitted before the IBT hearing panel that he had spoken to Ryan “maybe four to five times,” and possibly on more occasions, after Ryan’s permanent bar in 1999. *See* IRB Ex. D, at 171-72, 221. Documentary evidence, which included a sworn affidavit submitted by Ryan to this court in another proceeding in 2006, *see* IRB Ex. 23, and telephone records reflecting calls between Gillen’s Local 500 cell phone and home phones and Ryan’s two home phone numbers, *see* IRB Exs. 27-39, confirmed Gillen’s contacts with Ryan after February 1999. Indeed, the telephone records reflected as many as ninety-five calls between Gillen’s and Ryan’s numbers. *Id.*

Despite these undisputed facts, Gillen testified during a February 1, 2007 IRB sworn examination that he had no contact with Ryan after the permanent bar was issued. *See* IRB Ex. 1, at 111. Gillen’s answers regarding his lack of contact with Ryan were unqualified.

Q. Have you had any contact with Mr. Ryan after he has been barred?

A. No, ma’am.

Q. Prior to Mr. Ryan being barred, did you have any meals with him?

A. No, ma’am.

Q. Did you ever socialize with Mr. Ryan?

A. No, ma’am.

Q. Before he was barred?

A. No, ma’am.

Q. And have you had any contacts with Mr. Ryan after he has been barred?

A. No, ma’am.

Q. Has Mr. Ryan ever called you after he has been barred?

A. No, ma’am.

Q. Have you ever called Mr. Ryan after he has been barred?

A. No, ma’am.

*See* IRB Ex. 1, at 111-12. Later in his sworn examination, Gillen was asked more specific questions regarding contacts with Ryan, to which he responded that he had not had a conversation with Ryan regarding Ryan’s reinstatement to the IBT, had not met in person with Ryan, and had

<sup>1</sup> Paragraph E(10) of the Consent Decree forbids IBT officers, representatives, employees, and members from knowingly associating with a member or associate of organized crime or “any person otherwise enjoined from participating in union affairs.” Consent Decree ¶ E(10); *see also United States v. IBT* (“*Carey and Hamilton Discipline*”), 22 F. Supp. 2d 135, 144 (S.D.N.Y. 1998), *aff’d*, 247 F.3d 370, 390 (2d Cir. 2001). “Prohibited knowing association ... is established when contact is purposeful and not incidental or fleeting.” *United States v. IBT*, 824 F. Supp. 410, 414 (S.D.N.Y. 1993), *aff’d* *DiGiralamo*, 19 F.3d 816. “Purposeful contacts are prohibited even if no illegal purpose is demonstrated, and purposeful contact may occur in either a business or social setting.” *Id.* (citations omitted). Knowing association may be inferred from “duration and quality” of the association. *United States v. IBT* (“*Senese & Talerico*”), 745 F. Supp. 908, 918 (S.D.N.Y. 1990), *aff’d*, 941 F.2d 1292 (2d Cir. 1991); *United States v. IBT* (“*Corza*”), 764 F. Supp. 797, 812 (S.D.N.Y. 1991).

For purposes of the Consent Decree’s associational ban, a person is considered to have been “enjoined from participating in union affairs” if he is either subject to a court order enjoining his participation in the affairs of the IBT or another union, *see* *United States v. Mason Tenders District Council*, 205 F. Supp. 2d 183, 190 (S.D.N.Y. 2002), or if he was permanently barred from membership in the IBT “pursuant to the disciplinary process established in the [C]onsent [D]ecree.” *United States v. IBT* (“*Sombrotto*”), 266 F.3d 45, 51 (2d Cir. 2001). The effect of the Consent Decree’s associational ban on IBT members is clear: It prohibits IBT members from knowingly associating with any organized crime figure or any person who has been “enjoined from participating in union affairs.” Because the ban applies by its terms to current IBT members, the IRB and the Union may enforce the ban against current IBT members who knowingly associate with a prohibited person by bringing disciplinary charges for violation of the IBT Constitution.

no contact with Ryan through a third party. *See* IRB Ex. 1, at 113-14, 116-17, 211. Contrary to Gillen's characterization at oral argument, the questions were specific and detailed. Accordingly, the record reflects that Gillen gave false testimony on February 1, 2007, regarding his contacts with barred member Ryan.

Moreover, the IRB reasonably adopted the IBT Decision to the extent that it rejected Gillen's purported explanations for his false testimony. Gillen argues in his objections to Application 128, as he testified before the hearing panel and argued to the IRB in his objections to the IBT Decision, that he "fail[ed] to recollect certain events" during his IRB sworn examination due to a stroke he suffered in January 2007. *See* IRB Ex. D, at 190-91; IRB Ex. G at 19-20; Gillen Objections, at 4-5, 24.<sup>2</sup> However, the transcript of the very same February 1, 2007 examination - which reflects Gillen's detailed recollection of other events, some of which occurred many years prior to the examination - undermines that claim. *See, e.g.*, IRB Ex. 1, at 9-14 (testimony regarding appointment to trustee and leadership positions in Local 107 and Local 500 from 1994 to 2005); IRB Ex. D, at 209-213 (cross-examination before panel hearing regarding recollection of other events). Indeed, during his IRB sworn testimony, Gillen specifically recalled seeing Ryan in Laurel Springs, Pennsylvania, and testified that Ryan did not greet him on that occasion. *See* IRB Ex. 1, at 113-14.<sup>3</sup> Also, although Gillen claims that many of the memories of his telephone calls with Ryan came back to him after he learned of the IRB-recommended charge against him, he never so notified the IRB about his supposed memory loss (Ex. D at 193-94, 213; Ex. E at 12) and never made any effort to correct the February 1, 2007 transcript (Ex. D at 213-14).

Furthermore, Gillen's contradictory testimony before the IBT hearing panel undermined his contention that he merely failed to recall his contacts with Ryan. When asked why he had responded "No" to questions during his February 1, 2007 examination regarding his contacts with Ryan, Gillen testified that he thought the contacts were justified because he was serving as Chairman of the Welfare Fund and Ryan was seeking information regarding health benefits. *See* Ex. D, at 192-93 ("To be honest with you, probably because the phone calls were so long ago, I wasn't thinking straight, you know, and if I was speaking to him, the only reason I was speaking to him was under health and welfare."). Gillen subsequently acknowledged in his testimony that he knew of no "health and welfare" exception that permitted contacts with

2. At no time in any of the proceedings did Gillen submit any medical evidence supporting the effect of the stroke on his memory.

3 As the IBT stated, "the transcript of his February 1, 2007 sworn testimony reflects that Brother Gillen provided vivid details regarding his personal history and background and regarding a number of past events, including a contentious trusteeship in Local 115 and an occasion in 2000 when he personally observed Ryan working for a company called Tri-state Health and Welfare." (Ex. E at 12)

4 As the IBT found: "[n]ot only is the argument that Gillen spoke to Ryan solely in his capacity as a Plan fiduciary something of a stretch, we do not in any event believe that the substance of or reasons for the conversations impair the materiality of the false testimony about Brother Gillen's contacts with Ryan. The simple fact of the matter is that Brother Gillen was asked about whether he had *any* contacts with Ryan and he flatly denied having *any*. That there might have been a good reason for the contacts does not explain his false responses."

5 Gillen's Objections also purport to assert a due process claim under the Fifth Amendment. *See* Gillen Objections, at 10. However, as the IBT's Decision and the IRB's findings affirming the decision do not constitute government action, the claim is without merit. *See, e.g.*, *United States v. IBT ("Senese and Talerico")*, 941 F.2d 1292, 1295-96 (2d Cir. 1991) (rejecting Fifth Amendment challenge to IBT-imposed discipline for lack of government action); *United States v. IBT ("Simpson")*, 931 F. Supp. 1074, 1107-08 (S.D.N.Y. 1996), *aff'd*, 120 F.3d 341 (2d Cir. 1997).

barred members. *See Id.*, at 207-08. Thus, the record plainly reflects that Gillen gave false testimony about what he says were innocent contacts with Ryan, which - if he had believed them to be innocent - would have presented no reason for denial.<sup>4</sup>

Finally, during his testimony before the IBT hearing panel, Gillen continued to minimize the extent of his contacts with Ryan, thus providing further support for the IRB's affirmation of the IBT's Decision that Gillen testified falsely. Gillen testified on direct examination before the hearing panel that he had contact with Ryan "four or five times." *See* IRB Ex. D, at 171-72. After Gillen was confronted with the telephone records for his home and cell phones, which included numerous calls between the parties' numbers, he conceded that he may have had more than five to ten conversations with Ryan. *Id.*, at 220-221. Gillen's reluctance to admit such contacts, even after the IRB charge was referred to the IBT, sheds doubt on his alleged lack of recollection during his February 1, 2007 IRB examination.

For these reasons, it was not arbitrary or capricious for the IRB to uphold the IBT's finding that Gillen gave false testimony regarding his contacts with Ryan during his February 1, 2007 IRB examination.

## B. Gillen Failed to Establish Any Procedural Defect in His Hearing

In his submission to the Court, Gillen argued that the proceedings against him were defective because 1) the hearing panel chair was allegedly under investigation by the IBT and therefore was not impartial; 2) the entire GEB should have conducted the evidentiary hearing on the charge against him; 3) the General President and General Counsel interpreted the IBT Constitution without authority; 4) the three GEB members who conducted the evidentiary hearing should have been disqualified from participating in the GEB vote because they had been transformed into "involved" members by virtue of conducting the hearing, and 5) the IBT General President should have been disqualified from voting because he filed the IRB-recommended charge against Gillen. (Br. at 10-15, 18-21).<sup>5</sup> For the reasons set out below, each of Gillen's arguments is without merit.

Pursuant to the LMRDA, 29 U.S.C. § 411(a)(5),

"No member of any labor organization may be fined, suspended, expelled, or otherwise disciplined except for nonpayment of dues by such organization

or by any officer thereof unless such member has been (a) served with written specific charges; (b) given a reasonable time to prepare a defense; (c) afforded a full and fair hearing.”

Section 101(5)(C) of the LMRDA “does not require that union disciplinary hearings incorporate the specific protections associated with judicial proceedings, including the right to be represented by counsel and the technical rules of pleading, procedure, and evidence.” *Frye v. United Steelworkers of Am.*, 767 F.2d 1216, 1224 (7th Cir.), *cert. denied*, 474 U.S. 1007 (1985), *cited in United States v. IBT (“Kikes”)*, 2007 WL 2319129 (S.D.N.Y. Aug. 9, 2007). A violation of a procedural provision of a union constitution is only actionable if the party was deprived of a full and fair hearing as a result. *See Carey and Hamilton*, 247 F.3d at 385-86; *see also Yager v. Carey*, 159 F.3d 638 (D.C. Cir. 1998), *aff’g* 910 F. Supp. 704, 713 (D.D.C. 1995) (“A court considering a claim for relief under the LMRDA because a party alleges that an internal union disciplinary hearing violated the union’s constitution must conduct a two-step inquiry: (1) the court must find that the hearing violated the constitution; and (2) it must find that the violation deprived plaintiffs of a fair trial within the meaning of the LMRDA.”). Accordingly, “courts should intervene in union disciplinary actions under section 101(a) (5) only if there has been a breach of fundamental fairness.” *See Kikes*, 2007 WL 2319129, at \*4; *Carey and Hamilton Discipline*, 22 F. Supp. 2d at 143.

### 1. Gillen’s Claim that the IBT Hearing Panel Chair was Biased is Without Merit

Gillen argued that he “was denied his due process right to trial by an impartial tribunal under the IBT Constitution, [and] the LMRDA ....” (Br. at 10) Gillen claimed that Haynes, the hearing panel chair, was biased against Gillen because at the time of the hearing, Haynes was reportedly under investigation for accepting payments from two health insurance plans that performed work for his Local. (Br. at 10-12, 20)<sup>6</sup> At oral argument before the Court, it was acknowledged that when Gillen inquired about the then-rumored investigation of Haynes, he was told that there was no such investigation; it was also acknowledged that Haynes is, in fact, repaying improperly received funds. Gillen speculated that Haynes was biased against Gillen because, at the time of the hearing, Haynes “had a motive to curry favor with the IBT leadership by doing what the IBT leadership wanted in order to avoid being charged.” (Br. at 12) Gillen did not provide any evidence of “what the IBT leadership wanted” in connection with the IRB-recommended charge against Gillen, except at oral argument where his counsel noted that Gillen was an “independent minded” Teamster. What inference is to be drawn from this rather neutral fact is not clear. Gillen offered no evidence of any bias against him by Haynes.

As demonstrated in the Chief Investigator’s letter of July

8, 2008 and the attachments thereto, the IRB was well aware of Gillen’s complaint about Haynes’ sitting on the hearing panel. Nevertheless, the IRB found the IBT’s proceedings “not inadequate.” In light of the extremely deferential standard of review applicable to IRB disciplinary decisions, the IRB’s finding must be upheld.

Although Haynes’ appointment to a hearing panel at a time when he was seemingly under investigation himself might not represent the best of practices, Gillen’s speculative assertions did not support a finding that Gillen was denied a hearing before an impartial tribunal. Cf., *United States v. IBT (“Simpson”)*, 931 F. Supp. 1074, 1106 (S.D.N.Y. 1996) *aff’d* 120 F.3d 341, 347-348 (2d Cir. 1997) (a claim of bias cannot be supported under any reasonable standard where there is a tenuous chain of inferences without any supporting evidence.); *Frye v. United Steelworkers of America*, 767 F.2d 1216, 1225 (7th Cir. 1985), *cert. denied*, 474 U.S. 1007 (1985) (“... charges that bias undermined the fairness of a disciplinary hearing must be supported by specific factual allegations from which the operation of bias can be inferred.”); *Yager v. Carey*, 910 F. Supp. 704, 715 (D.D.C. 1995) *aff’d*, 1998 U.S. App. LEXIS 1984 (D.C. Cir. 1998) (“... specific factual allegations that show the panelists were incapable of hearing plaintiff’s case impartially” are necessary to demonstrate an LMRDA violation) (citations omitted); *United States v. IBT (“Kikes”)*, 2007 U.S. Dist. LEXIS 58972, at \*14 (citing Frye at 767 F.2d at 1224) (allegations which are mere conclusory assertions “fall short of the ‘specific factual allegations of bias’ required for this Court to find a LMRDA violation.”).

The cases Gillen cites in support of his claim of bias are readily distinguishable from the instant case. In *Wildberger v. American Federation of Government Employees*, 86 F.3d 1188, 1196 (D.C. Cir. 1996), the Court held that a union official was denied a fair hearing under the LMRDA when his political opponent initiated the investigation of the official, supervised the investigation, determined probable cause by bypassing a provision in the union’s constitution for a committee of investigation to determine probable cause, chose the hearing panel members and rendered a final decision against the union official. *Id.* at 1196. Here, the IRB, an independent entity, conducted the investigation and recommended the charge against Gillen. Gillen did not allege, much less prove, any political animus against him by any panel member, and the IBT constitutional provision regarding the GEB’s rendering a decision was followed. Thus, *Wildberger* is inapposite.

In *Bolliter v. IBT*, 735 F. Supp. 612, 619 (D.N.J. 1989), also cited by Gillen, the Court held that a hearing panel violated the LMRDA when it included both the stepson and brother of one of the charging parties. There, the Court held,

<sup>6</sup>’[w]hen the plaintiff pled his case to the Local, he

6 Gillen submitted a July 3, 2007 article which stated Local 237 and the International Union were investigating HMO “consultant” payments received by Haynes. (Br. at Ex. B) On October 12, 2007, there was another article which stated Haynes, the former Local 237 President, “agreed to repay more than \$100,000 of funds he received from a company that manages the union’s health plan.” (Br. at Ex. B)

was looking into the eyes of his adversary's close family members. When Mr. Greenley, on the other hand, literally acting as a prosecutor, rose to speak, he was preaching to an assemblage of his trusted disciples, an assemblage which included his own son and brother. We do not believe that in such a situation a union member's fundamental right to a hearing before an impartial tribunal is satisfied." *Bolliter v. IBT*, 735 F. Supp. 612, 619 (D.N.J. 1989).

In *Tincher v. Piasecki*, 520 F.2d 851, 854-855 (7th Cir. 1975), on which Gillen also relied, the Court held that a hearing panel violated the LMRDA when one of the hearing panel members had been charged by the charged party in a collateral proceeding. In *Kuebler v. Cleveland Lithographers and Photoengravers Union Local 24-P*, 473 F.2d 359, 363-364 (6th Cir. 1973), also cited by Gillen, the Court held that a union member did not receive a full and fair hearing when he was tried before a Board whose membership was never divulged to him and which was essentially comprised of the same parties who had investigated the charges against him. None of the factors supporting a finding of an unfair hearing in these cases was present in the instant matter, and thus these cases do not support Gillen's position.

Here, Gillen presented no evidence of a personal conflict or political animus between him and Haynes or other evidence of bias. That Haynes may have been under investigation on an entirely separate matter does not constitute evidence that Haynes was biased against Gillen.

## 2. The IBT's Constitution Permitted a Hearing Panel to Conduct an Evidentiary Hearing and to Make a Recommendation to the Full GEB

Gillen argued that Article XIX, Section 4(d) of the IBT Constitution mandated that an International Officer have an evidentiary hearing before the full GEB, and it does so state.<sup>7</sup> (Br. at 13-14) But, contrary to Gillen's claim, Article XIX, Section 6 of the IBT Constitution expressly allowed the General President to appoint a hearing panel to conduct an evidentiary hearing and make a written recommendation to

<sup>7</sup> Article XIX, Section 4(d) of the IBT Constitution states: "Trial of an elective International Officer shall be only before the General Executive Board at such time and place as fixed by the General Executive Board. The officer charged shall be found guilty only on a two-thirds (2/3) vote of the uninvolved members of the General Executive Board who have heard the charges...."

<sup>8</sup> Article XIX, Section 6 of the IBT Constitution states: "In a case where a trial... before the General Executive Board... is required under the provisions of this Constitution, such Board or the General President... may have such trial... conducted before a panel appointed by the General President.... Such panel shall consist of one or more uninvolved members and shall act on behalf of such Board in the holding of hearings and the taking of evidence. No member of the hearing panel or of the Board who is involved in the charges shall participate in deciding any aspect of the case, as prohibited by Section 1 of this Article.... The panel shall make a full report in writing to the Board, including findings and recommendations for disciplinary action, if any. The ultimate decision of the case, however, shall be made by the Board itself."

<sup>9</sup> Gillen dismissed Article XIX, Section 6 by claiming that the rules of statutory construction require that a specific provision in a Constitution or a body of laws control over a general one. (Br. at 16-17) However, there was no need to rely on rules of statutory construction as there is neither ambiguity nor conflict between the provisions of Article XIX, Sections 4(d) and 6 of the IBT Constitution.

<sup>10</sup> Article VI, Section 2(a) of the IBT Constitution states: "The General President shall have authority to interpret the Constitution and the laws of the International Union, including the authority to interpret the Bylaws of subordinate bodies, and to decide all questions of law thereunder between meetings of the General Executive Board...."

<sup>11</sup> Article XIX, Section 1(a) of the IBT Constitution states: "... In no event shall any involved officer or member serve on a hearing panel, participate in the selection of a substitute member of a hearing panel, or participate in the decision making process of the trial body. This prohibition shall apply to any proceeding conducted under Article XIX or any other Article of this Constitution."

<sup>12</sup> Gillen argued that the panel members became "involved" in the proceedings when they made proposed recommendations of fact and conclusions to the ultimate decision makers. As such, Gillen contended that the panel members were ineligible to vote on the charge. (Br. at 19) Gillen claimed that the panel members became "involved" members, who had already "made up their minds prior to the trial." Gillen argued that the panel members' presence and participation in the GEB vote was inappropriate because he alleged that these panel members sought only to defend their decision and were not "neutral fact finders." (Br. at 19)

the full GEB for its review "[i]n a case where a trial... before the [GEB] is required ...."<sup>8</sup> Article XIX, Section 6 of the IBT Constitution specifically allows for the appointment of a hearing panel to "act on behalf of [the GEB] in the holding of hearings and the taking of evidence" and provides that "the ultimate decision of the case, however, shall be made by the Board itself." In the instant case, three GEB members conducted the evidentiary hearing on the charge against Gillen as Article XIX, Section 6 of the IBT Constitution permitted, and, as the IBT Constitution required, the full GEB rendered a decision on the charge by a two-thirds vote.<sup>9</sup>

Gillen also alleged that the IBT General Counsel and the General President usurped the general authority of the GEB to interpret the IBT Constitution. (Br. at 15) Contrary to this claim, Article VI, Section 2(a) of the IBT Constitution permits the IBT General President to interpret the IBT Constitution between meetings of the GEB.<sup>10</sup> Moreover, the GEB adopted the hearing panel's written recommendation which considered and rejected Gillen's interpretations of Article XIX, Sections 4(d) and 6 of the IBT Constitution. (Ex. E at 2-3) Thus, final interpretation was made by the GEB.

## 3. The Three Hearing Panel Members and the IBT General President Were Not "Involved" in the Underlying Charge Against Gillen

Gillen argued that the three hearing panel members and the IBT General President should not have participated in the GEB's deliberations on the charge against him. (Br. at 18-21) Article XIX, Section 1(a) prohibits "involved" officers and members from hearing a charge.<sup>11</sup> Gillen contended that the three GEB members who were on the hearing panel were transformed into "involved officers" because they conducted the evidentiary hearing on the charge against him. (Br. at 18-20)<sup>12</sup> Gillen also alleged that the General President, by filing the IRB-recommended charge against him, became "involved" and should not have participated in the GEB's deliberations. (Br. at 21) Gillen cited no IBT constitutional authority or cases decided under the Consent Order for those propositions. The cases Gillen does cite, *Kiepura v. Local Union 1091, United*

*Steel Workers of America*, 358 F. Supp. 987, 991-92 (N.D. 111. 1973) and *Rosario v. Amalgamated Ladies Garment Cutters' Union, Local 10, I.G.L.U.*, 441 F. Supp. 657, 662-64, (S.D.N.Y. 1977) *aff'd in part, rev'd in part on other grounds*, 605 F.2d 1228 (2d Cir. 1979), *cert. denied*, 446 U.S. 919 (1980), are both distinguishable from the instant matter. In *Kiepura*, the Court held that a union member and candidate for union office was not afforded a fair hearing when the union official who initiated the charges against the member later participated as one of the hearing panel members and appointed the hearing panel. *Id.* at 991-992. In *Rosario*, the Court held that three union members did not receive a fair hearing under the LMRDA when the union official who brought the charges against the union members participated as the Chairman of the Executive Board in hearing and deciding the charge. *Id.* at 662. When the union members were granted a second trial, the Court found they were again denied a fair hearing when many of the board members who had participated in the first trial sat as board members in the second trial. *Id.* at 663. Because of these significant factual distinctions, the cases Gillen cites do not support his position.

In *United States v. IBT ("Boggia")*, 167 F.3d 113, 119 (2d Cir. 1999), which involved another disciplinary proceeding under the Consent Order, the Court of Appeals held that there was no violation of the LMRDA when a union member was tried by two separate panels on the same charges and the then-IBT General President reviewed and adopted both hearing panel decisions. Similarly in *Wildberger*, 86 F.3d at 1195, where, as here, the President screened the charge, the Court held that "[t]he fact that the [union] President makes the initial probable cause determination, therefore, does not mean that, after reviewing all the evidence and the recommendation of an impartial trial committee he cannot fairly make the ultimate decision." In *Wildberger*, "significant danger of bias" occurred only when it was shown that the President - who had initiated the investigation against the charged party, appointed a panel to hear the charge, and also deliberated on this charge - had been a former political adversary of the charged party who had openly criticized him on many occasions. *Id.* at 1194-1196. As noted above, none of the facts the *Wildberger* Court found to constitute "danger of bias" is present here.

More applicable to the present facts is the Supreme Court's holding that "[i]t is also very typical for the members of administrative agencies to receive the results of investigations, to approve the filing of charges or formal complaints instituting enforcement proceedings, and then to participate

in the ensuing hearings. This mode of procedure does not violate the Administrative Procedure Act, and it does not violate due process of law." *Withrow, et al. v. Larkin*, 431 U.S. 35, 56 (1975). Similarly, in *Sawyer v. American Federation of Government Employees*, 150 F.3d 31, 36 (2d Cir. 1999), the Court dismissed claims that the LMRDA has been violated where the union President's "acts were in the course of duty and did not arise from any circumstances indicating bias." Here, General President Hoffa was presented with an IRB-recommended charge and supporting evidence. He was not the impetus behind the charge and had no involvement in the investigation. He merely made the administrative decision there were sufficient grounds on which to file the IRB-recommended charge.

Finally, Gillen offered various statements contained in a hearsay declaration of his counsel in order to support his claim of improprieties during the GEB's deliberations. According to Gillen's counsel's declaration, two GEB members improperly voted on the charge against Gillen because they did not participate in the GEB conference call during which the charge against Gillen was considered. (Br. at 21-22). Gillen's counsel stated that two GEB members voted on Gillen's charge after the conference call because they had been traveling and were unable to be present for the conference call. (Br. Attachment 1 at 3-5). According to the declaration, an anonymous source stated that if the two GEB members had not been polled later, the GEB would not have reached the requisite two-thirds vote to adopt the hearing panel's decision and recommendations. (Br. at 22). Gillen's counsel's declaration did not contain any facts that tended to show these two GEB members had been improperly excluded from the vote. Counsel's declaration stated it was based upon information provided from an anonymous GEB member, and the declaration was unsworn. (Br. Attachment 1)

Gillen argued that under Article XXV of the IBT Constitution, the GEB members must either be present or simultaneously responding to a telephone poll in order to vote. (Br. at 22-23).<sup>13</sup> According to Gillen, because two members of the GEB were called after the vote on the conference call was taken, their votes were improper. (Br. at 22)

Article IX, Section 6 of the IBT Constitution, however, provides that when acting by telephone poll, all GEB members must be polled and does not mandate that GEB members must be simultaneously polled.<sup>14</sup> Thus, even considering Gillen's counsel's unsworn hearsay declaration, there was no violation.

13 Article XXV of the IBT Constitution states: "Unless specifically provided otherwise, wherever this Constitution provides for action by the Executive Board of the International Union ... the words 'Executive Board' shall mean 'a majority of the members of the Executive Board present and voting at a duly called meeting at which a majority of the members of the Executive Board is present or responding to a telephone or electronic poll.' Actions approved by the poll must be recorded in the minutes of the Executive Board and ratified by a majority of the members of the Executive Board at its next meeting."

14 Article IX, Section 6 of the IBT Constitution provides: "In all matters requiring action by the General Executive Board, and when the General Executive Board is not in formal session, the General Executive Board may act by telegram, letter, TITAN communications, electronic mail, or long distance telephone. When the General President requires action by the General Executive Board, he may obtain the same by telegraphing, writing, TITAN or electronic mailing, or telephoning to the members of the General Executive Board, and such members may take action on the matter; provided, however, that whenever action is sought, all members of the General Executive Board shall be polled. Such action so taken by a majority of the members of the General Executive Board shall constitute action of the General Executive Board as though the General Executive Board were in formal session; provided, however, that any such action shall be confirmed at the next formal session of the General Executive Board."

#### 4. Gillen Received a Full and Fair Hearing

In any event, in reviewing the fairness of the hearing procedures under the LMRDA, even in instances where there was a violation of a provision of a union's constitution, “[a] violation of a procedural provision of a union's constitution is actionable only if the violation deprived the party of a full and fair hearing under the LMRDA.” *United States v. IBT* (“*Carey and Hamilton*”), 247 F.3d 370 (2d Cir. 2001); see *Yager v. Carey*, 910 F. Supp. 704, 712-13 (D.C. 1995) *aff'd*, 1998 U.S. App. LEXIS 1984 (D.C. Cir. 1998). Here, Gillen was provided with advance notice of the hearing date, written notice of the charge against him, and documentary evidence supporting the charge. *See* IRB Exs. C, D; see also *Carey & Hamilton Discipline*, 22 F. Supp. 2d at 143. At the panel hearing, Gillen was represented by counsel and presented witnesses and evidence in his defense. *See* IRB Ex. D; *Carey & Hamilton Discipline*, 22 F. Supp. 2d at 143. Accordingly, Gillen cannot demonstrate he did not receive a full and fair hearing and thus that his disciplinary proceedings violated the LMRDA.

### III. THE IRB'S DETERMINATION OF SANCTION

Gillen challenges the three-year suspension from membership and five-year bar from holding IBT office or employment as “extreme.” Gillen Objections, at 26-27. Specifically, he claims that the hearing panel relied on cases involving “individuals who were guilty of multiple charges far more extensive than the single charge of failure to cooperate with the IRB.” *Id.*, at 26. For the reasons set out below, Gillen’s arguments are without merit.

It is well established that a “district court reviews penalties imposed by the IBT in accordance with the Consent Decree under an ‘arbitrary and capricious’ standard.” *Boggia*, 167 F.3d at 120. In reviewing IRB sanctions, this Court asks only whether the sanction imposed represents an “allowable judgment” in the choice of the remedy. *United States v. IBT* (“*Wilson, Dickens, Weber*”), 978 F.2d 68, 73 (2d Cir. 1992) (citation omitted). “[T]he reviewing court should not overturn the... choice of sanctions unless it finds the penalty unwarranted in law or without justification in fact.” *Simpson*, 120 F.3d at 348 (citing *Wilson, Dickens, Weber*, 978 F.2d at 73); see also *United States v. IBT* (“*Bane*”), No. 88 Civ. 4486 (LAP), 2002 WL 654128, AT \*16 (S.D.N.Y. 2002) (“The relevant inquiry with respect to an IRB sanction is not whether the Court agrees or disagrees with it but rather is limited to whether the IRB made an allowable judgment in its choice of remedy.”) (citation omitted), *aff'd*, 59 Fed. Appx. 424 (2d Cir. Mar. 13, 2003). Given that the IBT Constitution specifically provides for suspension from membership and a bar on holding office as appropriate disciplinary sanctions, *see* Article XIX, Section 10(a), the sanction imposed on Gillen is an allowable judgment.

Moreover, Gillen errs in his attempt to compare his sanction to those issued to other IBT members. As this Court has held, “it is well established that sanctions given in other cases are not relevant to the Court’s inquiry as to whether a

particular sanction is unwarranted or without justification.” *Bane*, 2002 WL 654128, at \*16 (citing *United States v. IBT* (“*Giacumbo*”), 170 F.3d 136, 144 (2d Cir. 1999) (“Uneven application of sanctions does not normally render the sanction imposed in a particular case arbitrary and capricious.”)); *Kikes*, 2007 WL 2319129, at \*4 (same); *see also United States v. IBT* (“*Sansone*”), 981 F.2d 1362, 1372 (2d Cir. 1992) (“the apparent discrepancy between the penalty imposed here and those imposed in other cases does not inexorably compel the conclusion that the Independent Administrator acted arbitrarily and capriciously”); *Carey & Hamilton Discipline*, 22 F. Supp. 2d at 142 (“Even assuming that Carey could demonstrate some discrepancy between the penalty imposed upon him and the penalties imposed in prior proceedings, it is in the province of the IRB to determine the appropriate punishment in each proceeding.”) In any event, other IBT members, including Michael Bane, have been permanently barred from the IBT for lying about their knowing association with members of organized crime or with a barred member.

Finally, Gillen’s challenge to the sanction imposed for his false testimony is especially unwarranted in light of the consideration given by the IBT to mitigating factors in his favor. As set forth in the hearing panel’s Report and Recommendation, the IBT considered factors such as Gillen’s long history of service with the union and the nature of his contacts with the barred party in its consideration of an appropriate penalty. *See* IRB Ex. E, at 14-15.

### CONCLUSION

For the reasons set out above, Application 128 is granted, and the IRB’s “not inadequate” finding with respect to the charge against Francis J. Gillen is upheld.

SO ORDERED:

Dated: July 14, 2008



LORETTA A. PRESKA, U.S.D.J.

## REPORT TO ALL MEMBERS OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

FROM: Independent Review Board  
Benjamin R. Civiletti  
Joseph E. diGenova  
William H. Webster

DATED: September 15, 2008

### I. INTRODUCTION

This is the Independent Review Board's ("IRB") Report Number 5 for the year 2008 to you on its activities conducted pursuant to the Consent Order. In this Report, we will discuss matters that have currently come before us, including a new report and the progress of existing charges about which we have previously informed you.

### II. NEW REPORT

#### A. WILLIAM A. MOORE – LOCAL 696, TOPEKA, KANSAS

On September 15, 2008, the IRB issued an Investigative Report to General President Hoffa concerning William A. Moore, International Representative, Secretary-Treasurer of the Missouri-Kansas-Nebraska Conference, and President of Local 696. The report recommended that Mr. Moore be charged with failing to cooperate with the IRB during his sworn examination on May 26, 2004, when he gave intentionally false testimony concerning the last time he had seen permanently barred IBT member Dane Passo. Mr. Hoffa was given 90 days within which to file the charge, hold a hearing and forward a final written report to the IRB.

### III. PROGRESS OF EXISTING CHARGES

#### A. DON HAHNS - BLET HEADQUARTERS, CLEVELAND, OHIO

We have previously informed you that Don Hahns, an officer of the Brotherhood of Locomotive Engineers and Trainmen (BLET), a Division of the Teamsters Rail Conference, allegedly violated his fiduciary duties to the BLEL and its members, embezzled and converted BLEL funds and property to his own use and the use of others, and brought reproach upon the IBT while President of the BLEL by embezzling over \$58,000 from the BLEL.

After an IBT panel hearing, Mr. Hoffa issued his decision removing Mr. Hahns from his current position in the BLEL until his current term of office has expired in 2010, suspending him from membership in the BLEL and the IBT for a period of one year, and requiring payment of a fine of \$44,963.97.

On May 13, 2008, the IRB notified Mr. Hoffa and Mr. Hahns that it found the IBT decision to be not inadequate. The IRB then made Application 131 to the district court for

Judge Preska's review. The matter is with Judge Preska.

#### B. ISAAC NIKO – LOCAL 85, SAN FRANCISCO, CALIFORNIA

In the last issue of the *Teamster* magazine we reported that Local 85 member Isaac Niko allegedly brought reproach upon the IBT by assaulting a Local 85 member outside Local 85's union hiring hall on February 15, 2008. In addition, the report recommended that he be charged with assaulting another Local 85 member while they were working at the Moscone Convention Center in 2006. Mr. Hoffa filed the charges, a panel was appointed to hear the charges, and a hearing was held.

On August 19, 2008, Mr. Hoffa suspended Mr. Niko from membership in Local 85, the IBT and all other IBT affiliates for a period of one year and from eligibility for job referrals from the Local Union's hiring hall during his suspension. At the end of his suspension, Mr. Niko must pay a fine to the IBT of \$2,500.00 and a fine to the Teamsters Benefit Trust Fund of \$1,000.00 to offset the Fund's payments for medical treatment received by the Local 85 member assaulted on February 15, 2008. The IRB has the matter under consideration.

#### C. FRANCIS J. GILLEN – LOCAL 500, PHILADELPHIA, PENNSYLVANIA

We have previously informed you that Francis (Frank) J. Gillen allegedly brought reproach upon the IBT and failed to cooperate with the IRB while International Vice President, Joint Council 53 President, Pennsylvania Conference of Teamsters President and Local 500 President, when during his sworn examination on February 1, 2007, he gave intentionally false testimony concerning his association with permanently barred member Thomas Ryan. In his sworn testimony he lied about his numerous contacts with Ryan after Ryan was barred.

On August 3, 2007, Mr. Gillen was barred by Mr. Hoffa from holding office for five years and from membership in the IBT for three years. The IRB found the decision to be not inadequate and made Application 128 to Judge Preska. Judge Preska granted the IRB's application and upheld the IRB's not-inadequate finding. Judge Preska's Order is printed in this issue of the magazine. On August 11, 2008, Mr. Gillen appealed to the United States Court of Appeals from Judge Preska's Order.

#### D. ROBERT A. HOGAN - LOCAL 714, BERWYN, ILLINOIS

We have previously informed you that Robert A. Hogan, Joint Council 25 Vice President and Local 714 Secretary-Treasurer, allegedly failed to act appropriately after he created a situation likely to result in a violation of the Consent Order when he rehired Robert Riley to work at Local 714 and failed to take any action to prevent, and, after learning, to address Mr. Riley's ongoing contact with William T. Hogan, Jr., a prohibited person under the Consent Order.

The IRB held a hearing on April 2, 2008, and while the IRB was in the process of issuing a decision, the IRB

received an agreement between Mr. Hogan and the IRB. Mr. Hogan agreed to permanently resign all positions with Local 714 and Joint Council 25 and for a period of two years he would not hold any officer position with the IBT or any IBT affiliated entity. He further agreed not to be an officer or employee of Local 727 for five years. On July 31, 2008, the IRB made Application 133 to Judge Preska for review of the agreement. The matter is with Judge Preska.

#### **E. LOCAL 714 - BERWYN, ILLINOIS**

We have previously informed you that the IRB recommended to General President Hoffa that Local 714 be placed in trusteeship. The report concluded that the Local was being conducted in a manner to jeopardize the interests of the Local, the Local was not being run for the benefit of the members, and at five Local 714 employers the Local failed to perform duties of a bargaining representative. By failing to perform the duties of a collective bargaining representative at five companies, there were non-union workers performing bargaining unit work. The Local acquiesced in the employers' use of the non-union workers for whom no dues were paid to the Local and no employer benefit fund contributions were made.

To determine whether a trusteeship should be continued, a hearing was held on August 4, 2008, and documents from the hearing are under review by the IBT.

#### **F. CHRIS LANSER – LOCAL 813, LONG ISLAND CITY, NEW YORK**

In the last issue of the *Teamster* magazine we reported that Local 813 member Chris Lanser allegedly brought reproach upon the IBT by failing to appear for his scheduled in-person sworn examination. Local 813 filed the charge and a scheduled hearing was canceled when Mr. Lanser signed an agreement in which he agreed to permanently resign from the IBT and Local 813. The IRB found the agreement serves to resolve the matter. On September 2, 2008, Judge Preska approved the agreement.

### **IV. TOLL-FREE HOTLINE**

Since our last report to you, the hotline has received approximately 75 calls reporting alleged improprieties. As in the past, all calls which appeared to fall within IRB jurisdiction were referred for investigation. Activities which should be reported for investigation include, but are not limited to, association with organized crime, corruption, racketeering, embezzlement, extortion, assault, or failure to investigate any of these.

To assure that all calls are treated confidentially, the system recording hotline calls is located in a cipher-locked IRB room on a dedicated line and accessed by IRB staff only. It is not manned by an investigator; however, the recorded information if complete and within IRB jurisdiction is forwarded directly to the Investigations Office.

Please continue to use the toll-free hotline to report improprieties which fall within IRB jurisdiction by calling 1-800-CALL-IRB (1-800-225-5472). If you are calling

from within Washington, DC, dial 202-434-8085.

### **V. CONCLUSION**

As always, our task is to ensure that the goals of the Consent Order are fulfilled. In doing so, it is our desire to keep the IBT membership fully informed about our activities through these reports and also through use of the website at [www.irbcases.org](http://www.irbcases.org).

If you have any information concerning allegations of wrongdoing or corruption, you may call the toll-free hotline noted above, use the IRB facsimile number 202-434-8084, or write to either the IRB Chief Investigator or the IRB office:

Charles M. Carberry, Chief Investigator  
17 Battery Place, Suite 331  
New York, NY 10004

Independent Review Board  
444 North Capitol Street, N.W.  
Suite 528  
Washington, DC 20001

# TEAMStar MEDICARE PART D

Prescription Drug Program



## Open Enrollment Period Begins November 15, 2008!



The International Brotherhood of Teamsters is proud to announce the open enrollment period for the TEAMStar Medicare Part D Program. This annual open enrollment period will begin on November 15, 2008 and end on December 31, 2008.

Teamster retirees and spouses who are currently enrolled in Medicare Parts A and/or B qualify for TEAMStar Medicare Part D coverage. Enrollment packets will be arriving in the mail soon. If you didn't receive an enrollment packet or need another one, please call us and we will send you one. Don't wait! The open enrollment period is for a limited time.

### **Enjoy the following TEAMStar Part D Program benefits:**

- Competitive group rates – not available to the general public
- Comprehensive drug coverage and pharmacy network
- Coverage options – two affordable plans to choose from; one offers coverage through the “donut hole”
- No annual deductible – plan begins paying immediately

**To get additional information or  
an enrollment packet, visit our website  
at [www.teamstarpartd.com](http://www.teamstarpartd.com) or call 1-866-524-4173.**

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