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FD-431

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February 18, 1999

John Morris, President
Teamsters Joint Council No. 53
3460 N. Delaware Avenue, Suite 310
Philadelphia, PA 19134

Re: Decision on Charges against Former
Local 107 President Thomas Ryan

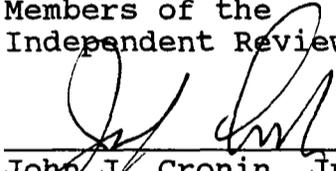
Dear Mr. Morris:

The Independent Review Board has received your February 9, 1999, decision in the above-captioned matter, and finds the decision to be not inadequate.

Very truly yours,

Members of the
Independent Review Board

By:


John J. Cronin, Jr.
Administrator

cc: David L. Neigus, Esq.
Patrick J. Szymanski, Esq.



TEAMSTERS JOINT COUNCIL NO. 53

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February 9, 1999

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LOCAL 384 Norristown
LOCAL 401 Wilkes-Barre
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LOCAL 463 Philadelphia
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VIA OVERNIGHT MAIL

John J. Cronin, Administrator
INDEPENDENT REVIEW BOARD
444 North Capitol Street, N.W., Suite 528
Washington, DC 20001

Re: Former Local 107 President Thomas Ryan

Dear Mr. Cronin:

Enclosed please find the decision of the Joint Council Panel and a copy of the hearing transcript.

If you need any further information, please feel free to contact this office.

Sincerely,

JOHN P. MORRIS,
President
Teamsters Joint Council
No. 53



**BEFORE THE EXECUTIVE BOARD OF
TEAMSTERS JOINT COUNCIL NO. 53
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

IN RE: Charges Against Former Local 107 President Thomas Ryan

Before: Joseph Yeoman, Chairman
Donald Deivert
John Laigaie

I. **INTRODUCTION**

This matter is before the Executive Board of Teamsters Joint Council No. 53 following the issuance of the report of the Independent Review Board dated December 10, 1998¹, recommending President of Joint Council No. 53 charge former Local 107 President Thomas Ryan with the following:

“Between August 20, 1996 and the present, you have brought reproach upon the IBT by continuing to be involved with IBT affairs, including the IBT election, while suspended from all IBT-affiliated positions and IBT membership in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(2) of the IBT Constitution, to wit:

After August 20, 1996 and the present, when you were suspended from all IBT-affiliated positions and IBT membership, you continued to be involved in the IBT election by frequenting the Hoffa campaign headquarters in Philadelphia, meeting with the Hoffa campaign coordinator for Philadelphia, meeting with a candidate for International Vice President to discuss campaign strategy, attending Hoffa campaign functions in the Philadelphia area and attending campaign functions in Albany, New York and Washington, DC.”

By letter dated December 15, 1998, John P. Morris, President of Joint Council No. 53, notified Brother Ryan of the charges against him. On January 12, 1999, Brother Ryan was notified that a hearing was set for January 28, 1999². On January 20, 1999 the Joint Council received a letter requesting a copy of the exhibits and also a continuance of

¹ The Panel notes that Brother Ryan was served with a copy of this report on or about December 10, 1998

² The Panel notes that Brother Ryan he was unable to retrieve his January 12, 1999 letter until January 19, 1999 but there is no evidence in the record testimony when he actually received the 1/12/99 letter, which was also sent First Class mail.

the hearing. On January 20, 1999, a letter denying Brother Ryan's request for continuance along with a copy of the exhibits was sent to him via UPS overnight delivery.

The Joint Council No. 53 Executive Board appointed Daniel McGinley, member of Local 107 to prosecute the charges and supporting evidence against Brother Ryan. The Panel was composed of Joseph Yeoman, Donald Deviert and John Laigaie. All parties appeared and were given a full opportunity to testify, call witnesses and present evidence in support of their respective positions.

II. PROCEDURAL QUESTIONS

At the beginning of the hearing in this matter Brother Ryan raised procedural issues which will be addressed.

- 1). Brother Ryan's first issue is that the Joint Council could not bring the charges against him. The IRB recommending charges be brought against Brother Ryan was addressed to the John P. Morris, President of Joint Council No. 53 by letter dated December 10, 1998. The Executive Board of Joint Council appointed Brother McGinley for the purpose of presenting the charges against Brother Ryan. The Panel appointed by the Joint Council sat to hear the entire case. There is nothing in the IBT Constitution that prohibits a subordinate body of the IBT from preferring charges against a suspended member.
- 2). Brother Ryan asserted that he did not receive ten-day notice of the date of the hearing as required by Article XIX, Section 1(c). The Panel notes that the Joint Council served notice on Brother Ryan on December 15, 1998. This notice informed Brother Ryan he was being charged pursuant to the IRB report dated December 10, 1998. The

Panel also notes that Brother Ryan received a copy of the IRB letter and report dated December 10, 1998 detailing the specifics of the charges against him. There is no indication in the record that Brother Ryan requested a copy of the exhibits from the IRB or Joint Council any earlier than January 20, 1999. The exhibits, when requested, were sent via overnight delivery to him. Article XIX Section 1(c) states that the accused shall have ten days notice of the hearing. In this particular case, the Panel notes that the notice of hearing to Brother Ryan was mailed via first class mail and certified mail on January 12, 1999. Brother Ryan claimed in his letter requesting a continuance that due to the federal holiday he was unable to claim his letter until January 19, 1999, but he fails to mention that he received the first class mail copy of the letter anytime prior to January 19, 1999. Therefore, the Panel denies Brother Ryan's procedural argument that he did not have ten days notice of the hearing.

3). Brother Ryan asserts that he was unable to receive a fair trial since he was not able to have witnesses and representatives assist him at the hearing. The Panel notes that Brother Ryan did have a representative from Local 107 assisting him throughout the hearing. Brother Tom Perkins was present on Brother Ryan's behalf during the entire hearing. Also Article XIX Section 1 (c) does not guarantee a member standing trial any right to a continuance for the purpose of securing witnesses. Brother Ryan had notice of more than thirty days concerning the charges being brought against him. The Panel further notes in the IRB letter of December 10, 1998 was very specific with the names and dates concerning the conduct-giving rise to the charges against Brother Ryan. The IRB letter also directed the Joint Council to conduct a hearing and submit its decision within sixty days of December 10, 1998. Brother Ryan's request for a continuance until

February 15, 1999 would have clearly brought this matter outside of the period of time directed by the IRB.

4). Brother Ryan claimed that the charges should be dismissed because the Election Officer already rejected the basis for the charges on June 23, 1998. Brother Ryan claims that this finding by the Election Officer should under Article XIX Section 7(a) of the IBT Constitution trial for charges that are “substantially the same or arise under the same circumstances as prior Internal Union charges against such member or Officer.” The Panel duly notes the difference of the duties of the Election Officer and the IRB under the Consent Decree. The matter addressed by the Election Officer concerned protest filed by Brother James Smith to matter affecting the IBT election. The jurisdiction of the Election Officer is different from the IRB. The Election Officer does not have the jurisdiction to charge Brother Ryan for violations of the IBT Constitution. The term charge under the IBT Constitution constitutes a violation of certain conduct under the IBT Constitution. Therefore Article XIX, Section 7(a) of the Constitution relied upon by Brother Ryan is not applicable to this instance. Therefore the Panel dismisses the procedural arguments raised by Brother Ryan.

III. POSITION OF THE PARTIES

A. The Position of Daniel McGinley, Prosecutor of the Charges

The case as presented by Brother McGinley was composed entirely of the sworn testimony of the witnesses that were interviewed and deposed by the IRB. Brother McGinley began his presentation explaining that Brother Ryan had been removed from office and that he was barred and prevented from holding office or working for an IBT local or affiliate (including union benefit funds and/or credit unions)

for a period of five years in addition he was suspended for a period of five years from membership. This penalty followed a decision of the Joint Council finding that he had embezzled funds from Local 107 while serving as President of the Local. (Exhibit 2).

Brother McGinley's case is as follows:

- 1) Following notice of his five year suspension from membership in August, 1996 noted above, Local 107 member Michael Clark, who also served as Hoffa's campaign coordinator in the Philadelphia area testified under oath he had observed Brother Ryan between 30-35 times as the Hoffa campaign headquarters which was located at 503 E. Girard Avenue during the 1996 IBT election. (Exhibit 5 at pages 8-9).
- 2) Brother Ryan according to the sworn testimony of Donato DeSanti, President of Local 701 and a candidate on the Hoffa slate for International Vice-President for the Eastern Region, testified that on October 6, 1998 he met with Brother Ryan for approximately one hour. Also attending the meeting were Ernest Soehl, DeSanti's campaign manger and Vice-President of Local 560 and George Quinn, Secretary-Treasurer of the DeSanti campaign and Secretary-Treasurer of Local 701. The meeting took place in a restaurant outside of Trenton, New Jersey. According to testimony of DeSanti, the purpose of the dinner with Brother Ryan was for the purpose of discussing campaign strategy. DeSanti testified that his campaign wanted to find out "which locals we could make some headway with in that area. . ." (Exhibit 6 at page 15). DeSanti also testified that at the October 1998 meeting that:

"Well, basically. . . , if we could make any. . . in-roads, with some of the locals that were supporting John Morris, because by this time Local 776. . . Tommy Griffith's local has swung his support over to the Hoffa slate, and there were other locals that were thinking on coming over.

And you know, I didn't know the people, and I thought maybe Tommy could, you know give us some introduction or some way to get to some speed to these people.”
(Notes of Testimony N.T. 32)

Soehl, DeSanti's campaign manager specifically told DeSanti that the purpose of meeting with Ryan was to discuss campaign strategy. (Notes of Testimony-page 32).

3) Clark, Hoffa's campaign coordinator met with Brother Ryan at Emil's Restaurant located in Philadelphia. This meeting occurred after Brother Ryan had been suspended (Exhibit 5 at pages 19-21). During these breakfasts with Brother Ryan, Clark would discuss Hoffa campaign strategy in the Philadelphia area with Brother Ryan (Exhibit 5 at page 22). In addition to these breakfasts, Clark would speak with Brother Ryan on the telephone. Clark testified that there were about 15-20 phone conversations took place between January 1998 and May 1998. The two talked about facsimiles that were about the election, the overturning of the election and mostly Carey stuff, negative Carey stuff.” (Exhibit 5 at page 31-33).

4) Brother Ryan following his suspension also attended a fundraiser for James Hoffa IBT candidate for General President. The fundraiser was held at the Lagoon restaurant in Essington, Pennsylvania on May 3, 1998. (Clark Exhibit 5 at page 12 and Walter Bosak, Exhibit 7 at page 8). Hoffa also attended this function. (Exhibit 5 at page 12-13). Anthony Frasco, a former Local 107 Trustee that had been appointed by Brother Ryan, testified that there were about 50 Local 107 members at the fundraiser. Brother Ryan never denied attending the campaign fundraiser. (Exhibit 10).

Brother Ryan also attended another Hoffa fundraiser in the Philadelphia area that took place in either February or March 1998 (Exhibit 5 at page 13; Exhibit 7 at page 10-11 and Exhibit 8 at page 11-12).

Brother Ryan also attended a Hoffa fundraiser in Albany, New York on April 26, 1998. (Exhibit 5 at page 25-29) and John Dooley (Exhibit 8 at page 12-14). Clark testified that Brother Ryan with about eight other IBT members from the Philadelphia area traveled to Local 701. At Local 701, the others and Brother Ryan traveled to Albany with DeSanti and his members. (Exhibit 5 at pages 25-29). Dooley testified that Brother Ryan spoke with members at this campaign function. (Exhibit 8 at page 14).

According to Patrick Bolger, Brother Ryan attended a Hoffa fundraiser in Washington, DC in March 1998. Brother Ryan traveled with Clark and Bolger after meeting with them at a diner in Philadelphia to travel down to the Washington, DC fundraiser. (Exhibit 12 at page 12).

Brother McGinley argued that the Panel should find that Brother Ryan has brought reproach upon the IBT in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(2) of the IBT constitution. Brother McGinley recommends that the Panel permanently bar Brother Ryan from all IBT affiliated positions and IBT membership for the violation of this five-year suspension.

B. Position of Brother Ryan

Brother Ryan presented his defense and had Tom Perkins a member in good standing with Local 107 assist him with the presentation of his case. Brother Ryan submits after he announced his candidacy for International Vice-President for the Eastern Region back in March, 1996 that John Morris arranged with the IRB to have Brother Ryan charged with embezzlement of Local 107 Funds. Brother Ryan further claimed that he was not allowed to prepare for the August 1996 hearing, as well as this hearing (that request was dealt with above). Also related to the August 1996, Brother Ryan submitted

that the Joint Council took the no vote with respect to that decision. In his opening statement Brother Ryan expressed his desire to pursue certain issues of the August 20, 1996 decision through other appropriate legal means.

In his defense of the instant case Brother Ryan asserted that the decision of the Election Officer dated June 23, 1998 rejecting a charges against him should be used to determine the charges against Brother Ryan in this case. It is the position of Brother Ryan that he did not purchase the tickets to any of the fundraisers and further that the terms of his suspension did not prohibit him from attending such events. Tom Perkins testified that he purchased a ticket to a fundraiser held at the Regency Caterers in Philadelphia sometime in February 1998 and gave the ticket to Brother Ryan (N.T. 75). Anthony F.X. Siegel testified that he purchased tickets to the Hoffa fundraiser held at the Lagoon restaurant. Siegel testified that after he purchased the ticket he couldn't go. He then gave the ticket to Brother Ryan. (N.T. 78). In addition Brother Ryan had Tom Dorman of Local 701 testify that he purchased tickets for the DeSanti Albany fundraiser. Dorman gave Brother Ryan a ticket for the fundraiser (N.T. 123).

With respect to the Clark's testimony concerning Brother Ryan's appearance at the Hoffa campaign headquarters, Brother Ryan admits he went to the campaign headquarters to pick up mail and personal items. Brother Ryan responded to Clark's testimony the breakfasts. Brother Ryan called Joseph Cassella as a witness. Cassella testified that he went to breakfast with Brother Ryan on a number of occasions. Casella testified that he and Ryan had breakfast at Emil's Diner and that there were other people in attendance including Mickey Clark, Joe Lamontica and Cassella's son. (N.T. 82). Cassella also testified that he did not remember campaign strategy was brought up during

these breakfasts. (N.T. 83). Cassella did testify that he did recall Clark being present at one of these breakfasts they had together (N.T. 92).

Brother Ryan called George Bosak as a witness. Bosak testified that as the office manager for the Hoffa campaign in 1998 he did not see Brother Ryan at the campaign headquarters. (N.T.). Bosak however testified he was not the office manager for the 1996 Hoffa campaign. (N.T. 108).

It is the position of Brother Ryan that at the October 6, 1998 dinner meeting with Donato DeSanti there was only one question about Hoffa campaign strategy.

Brother Ryan admits in summary that he did attend Hoffa campaign fundraisers. He also testified that he was at the old Hoffa campaign headquarters following his suspension from membership to pick up mail or personal items (N.T. 144).

It is Brother Ryan's position that he did not violate the terms of his August 1996 suspension and that as such he did not bring reproach upon the IBT or otherwise violated his oath. Brother Ryan claims that he was never notified about outstanding decisions concerning the conduct of a suspended member and requests that the Panel dismiss the charges against him.

IV. THE DECISION OF THE PANEL

The case presents this Panel with very few factual disputes. The Panel notes for instance Brother Ryan admits to going to the Hoffa Philadelphia campaign headquarters located at 503 East Girard Avenue following his suspension in August 1996. He asserts that he was there only to pick up mail and some personal items (N.T. 144).

Brother Ryan also admits that he attended political fundraisers for candidate Hoffa during the recent IBT election. Brother Ryan's defense to the Panel is that he did

not purchase the tickets to the fundraisers. The tickets were given to him. In addition, he did not consider that the terms of his suspension covered his attendance at IBT political functions.

Brother Ryan's defense to the October 6, 1998 meeting with DeSanti is simply that there was only one question about campaign strategy that came up so therefore there was no violation of the terms of his suspension.

The charges against Brother Ryan involve a violation of Article II Section 2(a) of the IBT Constitution and Article XIX Section 7 (b)(2). Under Article XIX Section 1(e), in order to sustain the charges "the charge must be supported by a preponderance of reliable evidence and a majority of the members of the panel must vote to find the charged party guilty."

Membership as defined in Article II Section 2(a) states that,

"Any person shall be eligible to membership in this organization upon compliance with the requirements of this Constitution and the rulings of the General Executive Board. Each person upon becoming a member thereby pledges his honor: to faithfully observe the Constitution and laws of his Local Union; and to comply with all rules and regulations for the government of the International Union and his Local Union; to faithfully person all duties assigned to him to the best of his ability and skill; to conduct himself or herself at all times in such a manner as not to bring reproach upon the Union by violating any specific provision of the Constitution; to take affirmative part in the business and activities of the Union. . ." (emphasis added)

In this case, the Panel finds that Brother Ryan's actions did constitute a violation of Article II Section 2(a) and Article XIX Section 7(b)(2). The evidence clearly shows that Brother Ryan during his suspension for five years continued to participate in the political process of the IBT. Immediately after his suspension he continued to visit the old Hoffa campaign headquarters to pick up his mail and personal items. Instead of having a family member do this for him, he personally went himself to the Hoffa

headquarters. He met with IBT members at breakfast meetings and discussed IBT politics after he was suspended. In addition he spoke with an IBT member by phone to discuss IBT election politics (Exhibit 5 at pages 31-33).

Brother Ryan's seeks to excuse his attendance at the political functions with an excuse. He boldly asserts that he did not purchase the ticket. Instead he was given the ticket time and time again to each of the fundraisers. A single fact remains he still attended the fundraisers and spoke to members at these events. Brother Ryan asserts a defense that the Election Officer did not find merit to charges about his presence at these fundraisers. This Panel is not guided by the same concerns of the Election Officer who has a different function than this Panel. Brother Ryan also had continued contacts with members of the IBT in which he either discussed or was asked questions about the IBT election. His continuing conduct in this area violated the terms of his five-year suspension.

The right of a member as detailed in Article II, Section 2 (a) above. It specifically allows an individual to "take an affirmative part in the business and activities of the Union..". This Panel finds that the business and activities of the Union fundamentally must include participating in the political and election process of the IBT. Therefore the converse is true for Brother Ryan. Once he was suspended from membership, his right to "take an affirmative part in the business and activities of the Union.." was also suspended including his right to be involved with the IBT political process in any manner. There is no evidence in the record that he sought any individuals or office's advice on this subject. Brother Ryan should have erred to the side of caution rather than attempting to personally carve out exceptions to his suspension. The terms of his

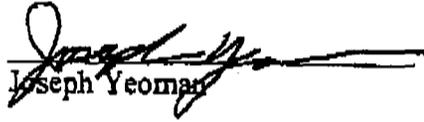
suspension were clear. The last phrase clearly states he was suspended from membership for a period of five years. Brother Ryan's intent is also clear from his testimony; he wanted to circumvent the terms of his suspension from the IBT. He attempts to excuse his conduct with such statements that he did not purchase the tickets to the fundraisers involving the politics of the IBT.

In addition, Brother Ryan asserts on the basis of fundamental fairness and due process, he never received any notice that the actions forming the basis of the charges against him could result in discipline of any kind, since he never was notified about the decisions in the Friedman case or Giancumbo case. The Panel takes notice of the fact that since the imposition of the Consent Decree, there has been a portion of the Teamster magazine devoted to charges against members for various violations of the Consent Decree. The report of the case against Friedman by the Independent Administrator was made in June 21, 1993 (See Teamster magazine, September 1993). During this period of time Brother Ryan was a member and officer of Local 107. This Panel notes that "ignorance of the law is no excuse" and is applicable to Brother Ryan's case. His claim of a lack of fundamental fairness and due process is simply without merit. Brother Ryan's actions during his suspension constituted a clear violation of the terms of his suspension.

The Independent Administrator held in Friedman that,

"[i]n order for a suspension from the IBT to have any effect whatsoever, it must be implemented in both substance and form." (Emphasis added). Brother Ryan sought to circumvent his suspension.

However, he did not choose this path. Brother Ryan disregard for the terms of his suspension bypassed the obligations he owed under the IBT Constitution. This Panel finds that Brother Ryan violated the terms of his five-year suspension. Therefore a more serious penalty must be imposed. Therefore this Panel finds that Brother Ryan should be permanently barred from all IBT-affiliated union positions, including membership in the IBT and prohibiting him from receiving compensation from IBT or from any IBT-affiliated source.


Joseph Yeoman

Donald Deivert

John Laigaie

Dated: 2/8/99

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