

TO: James P. Hoffa, IBT General President
From: Members of the Independent Review Board
RE: Proposed Charge against Local 614 Member Gary Proctor
DATE: May 2, 2006

I. RECOMMENDATION

The Independent Review Board ("IRB") refers the below report to the IBT General President and recommends that a charge be filed against Gary Proctor ("Proctor"), a member of Local 614 in Pontiac, Michigan, for bringing reproach upon the IBT by knowingly associating with a barred individual, Michael C. Bane ("Bane"), the former President of Local 614 and a former International Representative. As a result of the IRB's July 17, 2001 decision permanently barring him from the IBT, Bane is a person with whom IBT members are prohibited from knowingly associating pursuant to Paragraph E.10 of the Consent Order.¹

As detailed below, there is evidence that Proctor knowingly associated with Bane after the latter was permanently barred from the IBT. Proctor admitted contact

¹ Paragraph E.10 of the Consent Order provides in pertinent part that, "officers, representatives, members and employees of the IBT[] are permanently enjoined . . . from knowingly associating with . . . any person otherwise enjoined from participating in union affairs"

at his sworn examination. (Ex. 1 at 63-66, 70, 73-76, 84-85). Telephone records subpoenaed by the Chief Investigator reflect that during the period from October 8, 2004 to June 19, 2005, approximately seventy-seven telephone calls were placed from Bane's home telephone either to Proctor's mobile telephone or to his home telephone. (Exs. 2 & 3). Thirty-one of these calls lasted three minutes or longer. (Ex. 2).

Accordingly, it appears that Proctor knowingly associated with a barred person, Bane, in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(1) and (2) of the IBT Constitution and Paragraph E.10 of the March 14, 1989 Consent Order in United States v. IBT, 88 Civ. 4486 (S.D.N.Y.) (LAP).

II. JURISDICTION

Pursuant to Article XIX, Section 14(c) of the IBT Constitution, this disciplinary matter is within the original jurisdiction of the IBT General President. Paragraph G(e) of the March 14, 1989 Consent Order in United States v. International Brotherhood of Teamsters, 88 Civ. 4486 (S.D.N.Y.) (LAP) and Paragraph I(6) of the court-approved Rules and Procedures for Operation of the IRB ("IRB Rules") require that within 90 days of the IRB's referral of a matter to an IBT entity, that entity must

file with the IRB written findings setting forth the specific action taken and the reasons for that action. Pursuant to Paragraph I(9) of the IRB Rules, not meeting this deadline may be considered a failure to cooperate with the IRB.

III. INVESTIGATIVE FINDINGS

A. Proctor's Background with the IBT

Proctor, who was born on November 5, 1949, joined the IBT when he was approximately 16 years old. (Ex. 4 at 4, 6).² Currently a member of Local 614 in Pontiac, Michigan, Proctor was previously a member of Local 299 in Detroit and Local 124, which merged with Local 614. (*Id.* at 5-6).

Throughout his career with the IBT, Proctor has held positions at various levels of the union, including the International Union, Joint Council 43, and Locals 124 and 614. (Ex. 1 at 5-7; Ex. 4 at 15-17). He was a business agent for Local 614 from 1999 until 2004. He is currently the Chairman of the IBT's Central Region Truck, Load and Steel Division, the trucking safety training officer of Joint Council 43, and a Trustee of the Joint Council 43 Credit Union. (Ex. 1 at 15, 34-36).

² Proctor's father, George, was also a longtime Detroit-area Teamster until he became the victim of a "professional hit." (*Id.* at 10).

Proctor's salary from all IBT entities in 2004 (the latest year for which such data is available), totaled \$83,918. Of that sum, Proctor received \$65,000 from Local 614 and \$18,918 from the International. (Ex. 5 & 6).

B. Proctor's Relationship with Michael Bane

Proctor has known Michael Bane since Proctor was a teenager, and the Proctor and Bane families are close. (Ex. 1 at 23-24). Bane's father, Joseph Sr., was best man at the wedding of Proctor's parents. (Id. at 23). Proctor's wife has a close relationship with Bane's domestic partner, Peggy Dillon. (Id. at 38).

C. Michael Bane's Permanent Bar

On December 21, 2000, the IRB recommended that the IBT bring disciplinary charges against Bane, who was then President of Local 614 and an International Representative. (Ex. 7). The charges were that Bane gave intentionally misleading testimony to the Chief Investigator regarding Bane's contact with members and associates of organized crime. (Id.).

On July 17, 2001, following a hearing, the IRB issued a decision that the charges against Bane had been proven. (Ex. 8). Effective that date, Bane was permanently barred from the IBT. (Id.). On April 18, 2002, the U.S. District Court for the Southern District of New York affirmed the

IRB's decision. (Ex. 9). On March 13, 2003, the Second Circuit Court of Appeals affirmed this Court's decision. (Ex. 10).

On July 27, 2001, the IBT's General Counsel sent a letter to Cecil Powell, who had recently replaced Bane as President of Local 614, stating that the IRB had permanently barred Bane from the IBT and that henceforth IBT members were prohibited from knowingly associating with Bane, including purely social contacts. (Ex. 11). On July 30 and again on September 8, 2001, Powell informed Local 614's officers and business agents in writing of the IRB's decision regarding Bane and the prohibition against knowingly associating with him. (Ex. 12). Each officer and business agent, including Proctor, acknowledged in writing receiving this advice. (Ex. 1 at 28-29; Ex. 12). Proctor testified, "We were told by Cecil Powell not to have any conversation with him, that he was barred for life, and I know what the consent decree says, we can't deal with him." (Ex. 4 at 13).

D. Proctor's Prohibited Association with Bane

Proctor had extensive contact with Bane after Bane was permanently barred from the IBT. Proctor admitted this during his February 15, 2006 sworn examination. (See, e.g., Ex. 1 at 63-66, 70, 73-76, 84-85).

Early in the sworn examination, Proctor stated that he had only spoken to Bane twice since Bane was barred -- at a wedding and a funeral -- and then only in passing. (Id. at 29-30). Proctor categorically denied having spoken to Bane on the telephone.³ (See, e.g., id. at 30, 38). When asked if it was possible that he had spoken to Bane by telephone, but just forgotten, Proctor replied:

We might as well get that out right now. I don't remember talking to Mike Bane at all. I know we were under the Consent Decree where I can't and I didn't. I don't remember this phone call at all.

(Id. at 38).

After being shown records of a series of calls to his mobile phone from Bane's home during the latter part of 2004, Proctor abandoned his earlier blanket denial of telephone contact with Bane, testifying that he could not recall talking to Bane by telephone. (Id. at 41-42). After consulting with his lawyer, Proctor revealed that during this period he was assisting Joseph Bane who, together with Cecil Powell and Jeffrey Duncan, was running for office at Local 614, and that he may have allowed

³ In early February 2006, Proctor was asked, as part of a Joint Council 43 internal investigation, to state in writing if he had had any contacts with Bane. (Ex. 1 at 30-31). Proctor informed his employer that he had come into contact with Bane only once, at a funeral, and that he had not had any telephone conversations with him. (Id. at 31-33).

Joseph Bane to use his (Proctor's) mobile phone to talk to his brother Michael.⁴ (See, e.g., id. at 43-45, 47-54, 60).

Asked to explain the large number of calls from Bane's home to his mobile phone, Proctor, after further consulting with his lawyer, conceded that he had spoken to Bane "on occasions," although he could not recall what they discussed. (Id. at 63-64).

When pressed further about the calls, Proctor disclosed that Michael Bane was advising Joseph Bane, Cecil Powell, Jeffrey Duncan and Proctor on campaign strategy. Specifically, Michael Bane advised the candidates "about companies that we should go hit a little harder, because he knew some of the stewards there." (Id. at 64). Among the companies that Bane suggested be "hit" were Arkansas Best Freight, Superior Ready-Mix, and Rite Aid. (Id. at 64-65). With regard to the latter company, Bane advised that the group talk to a certain individual who Bane knew very well and had been placed there as a "plant to help campaign." (Id. at 66).

Proctor engaged with Michael Bane on other issues relating to the Local 614 election as well. For example, Proctor attended a meeting at a bar in downtown Detroit

⁴Although he was not part of Joseph Bane's slate, Proctor was at that time a business agent at Local 614.

that Bane had set up with an individual who produced campaign material. (Id. at 71-72). The group decided not to use that individual's services after concluding that he was a "slumball." (Id. at 71). Instead, the group obtained campaign materials from another individual named Sanford Walkon. (Id. at 66-67, 72).

Additionally, following the Local 614 election, in which Joseph Bane, Powell and Duncan were defeated, Michael Bane advised the group members to file a protest on the ground that the election had purportedly been rigged. (Id. at 73-75). Proctor spoke directly with Michael Bane about this subject. (Id. at 74-75). Bane also explained how to file a protest. (Id.). The group followed Michael Bane's advice. (Id. at 75).

Towards the end of his sworn examination, Proctor recanted his earlier testimony that he could not recall talking to Michael Bane. Proctor testified that, during the Local 614 election campaign, Proctor and the Local 614 candidates spoke to Bane many times. (Id. at 85). According to Proctor, Bane was concerned about the election and exhorted the group to work hard and "get the job done." (Id.).

The records for Michael Bane's home telephone (Ex. 2, Ex. 3) show a pattern of frequent telephone contacts

between Proctor and Bane. During the period October 8, 2004 to June 19, 2005, there were seventy-seven telephone calls from Bane's home telephone either to Proctor's mobile telephone or his home telephone. (Ex. 2). Twenty-seven of these calls exceeded three minutes. (Id.). Forty-nine of the calls took place during the Local 614 officer election campaign (which ran from September through December 2004), and all but one of those calls was placed to Proctor's mobile phone. (Id.). The other twenty-eight calls were made to Proctor's home. (Id.). These calls occurred after the defeat of the Joseph Bane slate and after Proctor returned his mobile phone to Local 614.⁵ (Ex. 1 at 6).

E. Proctor's Knowledge of Bane's Bar

As described above, Proctor was well aware of the prohibition against associating with Bane. Proctor

⁵ At his February 2006 sworn examination, Proctor suggested that the calls made from Bane's home phone to Proctor's home phone likely represented conversations between Bane's domestic partner, Peggy Dillon, and Proctor's wife, Susan, and that if Proctor spoke to Bane at all on any of these occasions, it was simply to say hello. (See Ex. 1 at 37-38, 76-77). The telephone records do not support this assertion. From October 2004 through December 2004, 48 calls were made from Bane's home phone to Proctor's cell phone, and only one call was made to Proctor's home phone. (See Ex. 2). The calls from Bane's home phone to Proctor's cell phone ended abruptly on December 29, 2004 -- a date that corresponds with the termination of his tenure as a Local 614 business agent and the return of his cell phone to that IBT local. Thereafter and continuing through July 2005, the series of calls from Bane's home phone continues, but instead of being made to Proctor's cell phone, they are made to his home phone. (Id.). If, as Proctor suggested, Ms. Dillon and Mrs. Proctor were speaking regularly over their respective home phones, one would expect to see calls made from Bane's home phone to Proctor's home phone throughout the period October 2004 to July 2005, and not the pattern of calls reflected in the phone records.

deliberately chose to defy that prohibition, because, as he explained, "I was worried about my job [as Local 614 business agent] and was hoping these guys [Joseph Bane, Cecil Powell and Jeff Duncan] were going to win." (Id. at 69-70).

IV. ANALYSIS

The permanent injunction set forth in Paragraph E.10 of the March 14, 1989 Consent Order prohibits IBT members from knowingly associating with a member or associate of organized crime and "any person otherwise enjoined from participating in union affairs" See United States v. IBT ("Carey and Hamilton Discipline"), 22 F. Supp. 2d 135 (S.D.N.Y. 1998), aff'd, 247 F.3d 370 (2d Cir. 2001) (associational bans imposed on the former IBT General President and the former Government Affairs Director had a basis in the IRB Rules and the Consent Order and were neither arbitrary nor capricious). Based upon the IRB's July 17, 2001 decision permanently barring Bane from the IBT, Bane was "enjoined from participating in union affairs."

In order to establish that an IBT member "knowingly associated" with a barred person, it must be proven that the contact was knowing and purposeful and not incidental or fleeting. See United States v. IBT [Adelstein], 998 F.2d

120, 125 (2d Cir. 1993); United States v. IBT [DiGiriamo], 19 F.3d 816, 821 (2d Cir. 1994), cert. denied, 513 U.S. 873 (1994). Purposeful contact can be in a business or social setting and does not have to involve an illegal purpose. United States v. IBT [DiGiriamo], 824 F. Supp. 410, 414 (S.D.N.Y. 1993).

Proctor admitted to frequent contact with Bane after Bane was permanently barred. This contact included numerous telephone calls during a 255 day period. Such contact was knowing and purposeful.

V. Proposed Charge

Based upon the foregoing, it is recommended that Gary Proctor be charged as follows:

While a member of Local 614, you brought reproach upon the IBT, violated your membership oath in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(1) and (2) of the IBT Constitution and Paragraph E.10 of the March 14, 1989 Consent Order in United States v. International Brotherhood of Teamsters, 88 Civ. 4486 (S.D.N.Y.) (LAP), to wit:

While an IBT member and employee of the International Union, Joint Council 43 and Local 614, and subsequent to July 17, 2001, as detailed above, you had knowing and

purposeful contact with Michael C. Bane, who had been permanently barred from the IBT on July 17, 2001.

EXHIBITS TO THE CHARGE REPORT CONCERNING GARY PROCTOR

- Ex. 1 Sworn Examination of Gary Proctor dated February 15, 2006
- Ex. 2 Schedule of calls made from Michael Bane's home telephone to Gary Proctor's cellular telephone or home telephone
- Ex. 3 Telephone Bills concerning Michael Bane's home telephone
- Ex. 4 Sworn Examination of Gary Proctor dated September 10, 2003
- Ex. 5 2004 LM-2 Form for Local 614
- Ex. 6 Excerpt of 2004 LM-2 Form for the IBT
- Ex. 7 IRB's recommendation to the IBT concerning charges against Michael Bane dated December 21, 2000
- Ex. 8 IRB's Opinion and Decision concerning charges against Michael Bane dated July 17, 2001
- Ex. 9 Judge Preska's Memorandum and Order dated April 18, 2002 affirming IRB's Opinion and Decision concerning charges against Michael Bane
- Ex. 10 Second Circuit's Summary Order dated May 13, 2003 affirming Judge Preska's Memorandum and Order concerning charges against Michael Bane
- Ex. 11 Letter from Patrick J. Szymanski to Cecil Powell dated July 27, 2001
- Ex. 12 Memo from Cecil Powell to Local 614 officers and staff concerning letter from Patrick J. Szymanski to Cecil Powell dated July 27, 2001

INDEPENDENT REVIEW BOARD
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September 12, 2006

James P. Hoffa, General President
International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, DC 20001

Re: Decision on Charges Against
Local 614 Member Gary Proctor

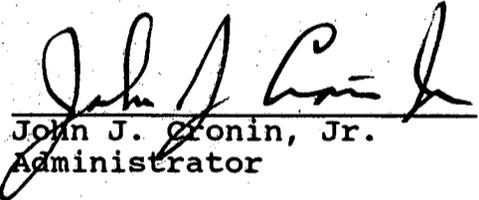
Dear Mr. Hoffa:

The Independent Review Board has reviewed your decision of July 25, 2006, as amended on August 3, 2006, 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: Charles M. Carberry, Esq.
Bradley T. Raymond, Esq.
Teamsters Local 614
Gary Proctor

Pursuant to the Consent Order of the United States District Court, S.D.N.Y.
United States -v- International Brotherhood of Teamsters 88 CIV. 4486 (LAP)

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

JAMES P. HOFFA
General President

25 Louisiana Avenue, NW
Washington, DC 20001



C. THOMAS KEEGEL
General Secretary-Treasurer

202.624.6800

August 3, 2006 www.teamster.org

Mr. John J. Cronin, Jr.
Administrator
Independent Review Board
444 N. Capitol Street, N.W., Suite 528
Washington, D.C. 20001

Re: Gary Proctor

Dear Mr. Cronin:

In response to your correspondence of August 2, 2006, please be advised that it was, in fact, my intention that as part of the sanction imposed against Mr. Proctor that no IBT affiliated entity would make, and Mr. Proctor would not accept, any contributions by an IBT entity on his behalf to any IBT benefit funds. In this regard, the Panel's decision prohibits Mr. Proctor from receiving any "compensation" from any IBT affiliates, and I understood and intended the term "compensation" to include contributions on his behalf to IBT benefit funds.

For purposes of clarification, Panel's decision is hereby amended to provide as follows:

Brother Proctor is additionally prohibited from having any contributions made on his behalf to any IBT-affiliated benefit funds by any IBT-affiliated entities.

Very truly yours,

A handwritten signature in cursive script that reads "James P. Hoffa".

James P. Hoffa
General President

cc: General Executive Board
Teamsters Local Union 614
Teamsters Joint Council 43
Hearing Panel
Gary Proctor

Gary Proctor

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

JAMES P. HOFFA
General President

25 Louisiana Avenue, NW
Washington, DC 20001



C. THOMAS KEEGEL
General Secretary-Treasurer

202.624.6800
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July 25, 2006

UPS Next Day Air
Mr. Gary E. Proctor
14466 Merriman Road
Livonia, MI 48154

Re: Article XIX Charges

Dear Sir and Brother:

You will find enclosed the report and recommendations of the Panel, which conducted the hearings on the charges filed against you. I have had the opportunity to review the Panel's findings and conclusions, and hereby adopt them as my own.

The Panel's recommendation is reissued as the decision of the General President.

Fraternally yours,


James P. Hoffa
General President

JPH/brb

Enclosure

cc: General Executive Board
Teamsters Local Union 614
Teamsters Joint Council 43
Hearing Panel
Independent Review Board

Report and Recommendations Regarding Charges
Against Gary Proctor

Pursuant to your appointment, a hearing was convened before the undersigned panel on June 16, 2006, regarding charges brought against Local 614 member Gary Proctor. Brother Proctor is currently employed by Joint Council 43 as a truck safety training officer under a grant from the State of Michigan. The charges are described in a report and referral issued by the Independent Review Board ("IRB") on May 2, 2006. They relate to activities occurring at least in part while Proctor was employed as a Business Agent for Local 614. They allege in substance that between October 8, 2004, and June 19, 2005, Proctor knowingly associated with Michael C. Bane, a person who has been permanently barred from the IBT since July 17, 2001. The General President accepted the IRB's referral and filed the charges.

Roland R. Acevedo, Esq., attorney for the charging party, presented records and other evidence supporting the charges. Proctor was represented at the hearing by Brothers Alan Sprague and Dennis Hands, and had the opportunity to respond to all allegations made against him.

The Panel has reviewed the transcript of the hearing and all documents submitted by the parties. The following comprises the Panel's Report and Recommendations.

The Charges

Brother Proctor is accused of having brought reproach upon the IBT by violating his membership oath in violation of Article II, Section 2(a) and Article XIX, Section 7(b) (1) and (2) of the IBT Constitution, as well as Paragraph E.10 of the Consent Decree. Specifically, he is charged with having knowing and purposeful contact with Michael C. Bane, who was permanently barred from the IBT effective July 17, 2001. Bane was barred for giving intentionally misleading testimony to the IRB regarding Bane's past contacts and associations with members and associates of organized crime. Teamster officers, employees, and members are precluded from knowingly associating with him. The IRB's referral described evidence of

some 77 telephone calls by Bane to Proctor's cell and home phones, occurring between October 8, 2004, and June 19, 2005.

Summary of the Evidence Against Brother Proctor

The evidence summarized in the IRB referral was not disputed during the hearing before us. Proctor's presentation consisted of an admission that he exercised "poor judgment" and various asserted defenses recited into the record.

During his sworn examination by representatives of the IRB's Chief Investigator, Proctor conceded that he was aware that Bane was barred and that members were precluded from having contact with him. Not later than September 8, 2001, Brother Proctor received written notice from Local 614's then principal officer that he was not to have contact with Bane. He signed this written notice. Proctor also testified during his IRB sworn examination that "[w]e were told ... not to have any conversation with him, that he was barred for life, and I know what the consent decree says, we can't deal with him." He did not attempt to dispute at the hearing that he clearly knew that contact with Bane was prohibited at the time when the charged contacts occurred.

It is likewise undisputed that between October 8, 2004, and June 19, 2005, Brother Proctor had extensive contact with Bane. Although Proctor initially claimed he had no telephone contact at all with Bane after Bane was barred, he changed his testimony upon being shown records of the extensive telephone contacts initiated by Bane to Proctor's cell phone and to his home. Ultimately, Proctor admitted that in late 2004 he and several then current officers of Local 614 were consulting with Bane on campaign strategy in connection with the Local's officer election. He stated, among other things, that Bane gave them advice about where and how to campaign.

Phone records for Bane's home telephone reflect an extensive pattern of phone calls to Proctor's cell and home phones. As indicated above, they reflect 77 calls between October 2004 and June 2005, 27 of which exceeded three minutes in duration.

Proctor does not now dispute that he participated in the calls.

Brother Proctor's Defenses

At the hearing before this panel, Proctor's advocates offered no additional facts or evidence, but rehearsed a number of arguments on his behalf, including the following:

1. That a mere "fleeting or casual" association cannot constitute prohibited "knowing association."
2. That the IRB exceeded its jurisdiction by prohibiting members from associating with Bane, since Bane was not barred because of his own criminal activities or LCN associations.
3. That prohibiting members from associating with Bane violates the First Amendment right of free association.
4. That, based on an affidavit from Proctor's spouse, telephone contact has occurred between Proctor's spouse and Bane's "girlfriend" at unspecified times.
5. That there is no evidence that Proctor initiated calls to Bane.
6. That Proctor was not a Union officer when he had contacts with Bane, and that 29 of the calls were made by Bane to Proctor's home after Proctor was no longer employed by Local 614 as a business agent.
7. That when the prohibited contacts occurred, Brother Proctor was not in a position to influence decisions with respect to any Union entities.

Discussion

Although the panel might in other circumstances find some of Proctor's arguments persuasive, it cannot do so on the record here. In light of the undisputed evidence of extensive and knowing contact between Proctor and Bane, and Proctor's admitted knowledge that Bane was barred and "we can't deal with him," we unanimously conclude that the charges that he knowingly associated with Bane are proven.

There was nothing “fleeting or casual” about the numerous telephone conversations Proctor admits he had with Bane. The fact that the contacts pertained to a campaign for office in Local 614 only makes the situation worse. Barred individuals are fundamentally prohibited from participating in Union affairs. The attempted involvement of a barred person in internal Union politics strikes at the core objectives of the Consent Decree.

Nor do we find persuasive the suggestion that because Bane was not barred because of his own participation in illegal acts or associations with organized crime prohibiting Proctor from associating with him is somehow beyond the reach of the Consent Decree. The simple fact of the matter is that Bane was barred for providing misleading testimony about his past associations with organized crime. The proffered distinction offered by Proctor’s advocates is thus entirely specious. We cannot accept the suggestion that there is a meaningful distinction between persons who have associated with organized crime and those who have been untruthful about their associations with organized crime.

Various iterations of Proctor’s First Amendment/freedom of association argument have been repeatedly rejected by the Courts. The First Amendment governs governmental actions, not actions by private entities. The actions of the IBT, this panel, and the IRB do not constitute governmental action. Countless judicial decisions under the Consent Decree so hold.

Proctor does not assert that any of the 77 calls that are the subject of this proceeding were actually between his spouse and Bane’s “girlfriend.” We decline to infer that they were.

We recognize that Bane has initiated numerous improper contacts, despite his permanent bar, with numerous members of the Union, some of whom have been charged, suspended, or otherwise disciplined for participating in these contacts. The evidence here shows that contacts with Proctor were also initiated by Bane. Nevertheless, in this case the contacts between Bane and Proctor were extensive, and clearly involved internal Union business from which Bane is clearly barred from participating. Proctor could have, but did not, resist these contacts or take other steps to curtail them.

Proctor held Union employment, including his position as a Local Union business agent, when most of the improper contacts with Bane occurred. The fact that he was not at the time an elected Union officer does not, on this record, mitigate the seriousness of his offense. Bane was seeking to involve himself in politics at Local 614, despite having been permanently barred from having any such involvement. Proctor admittedly knew this, knew that the communications were improper and continued to communicate with Bane about the Local 614 election despite this knowledge.

Brother Proctor's continued contact with Bane after the Local 614 election and after he was no longer a business agent likewise does not help his case here. Proctor conceded that some of the communications related to Bane's suggestion that the losing slate of candidates in the election file an election protest. More important, the ban on knowing association with barred persons applies to all IBT members, not merely those who are elected officers. After Proctor's employment with Local 614 ended in late 2004, Proctor was employed by Joint Council 43 under an arrangement with the State of Michigan. He was not at any relevant time a rank and file member for whom ignorance of the requirements of the Consent Decree might conceivably be excused.

Finally, we must reject the suggestion that Proctor was in no position to influence Union actions when his contacts with Bane occurred. The contacts between Proctor and Bane were plainly calculated to influence the election of officers in Local 614. This was, as previously indicated, precisely the kind of improper outside influence on Union affairs that Bane's permanent bar was designed to prevent.

Recommended Penalty

This is an extremely unfortunate case. Brother Proctor's long Union career and lifetime of commitment to the Teamsters Union has necessarily been tainted by his contacts with Bane after Bane was barred. Expelling a person from Union membership should never be approached lightly. We do not do so here. Nevertheless, and consistent with the "just cause" standard that is embedded in the Consent Decree, we must on this record conclude that the facts warrant Proctor's permanent expulsion from the IBT.

It is our understanding that in determining an appropriate penalty for a member's improper association with a barred individual, we should consider a number of factors, including the following:

1. The timing, nature, frequency and duration of the contacts;
2. Who initiated the contacts and the circumstances under which they may have been reciprocated;
3. The extent to which the bar was clearly communicated throughout the Union by the IRB and/or the International Union;
4. The charged member's position in the Union and history of misconduct, if any;
5. Whether the charged member was truthful when confronted by the allegations of improper contacts;
6. The nature and credibility of any explanations or defenses offered by the charged member;
7. Whether penalties short of permanent expulsion will likely deter future improper contacts by the charged member and/or others.

Again unfortunately, it appears to us that most of these factors militate in favor of Proctor's permanent expulsion from the Union. Although it appears that Bane, rather than Proctor, initiated the prohibited contacts for which he has been charged, and while there is no evidence that Proctor has any history of previous misconduct, the nature, extent, and frequency of the improper contacts between Proctor and Bane and Proctor's deliberate efforts initially to mislead the IRB's investigators about them are deeply troubling. Among other things, Proctor's initial dishonesty when confronted with evidence of these extensive contacts gives us serious concern that any penalty short of permanent expulsion will deter future improper contacts with Bane or other barred persons.

Accordingly, we recommend that Brother Proctor be permanently expelled from membership in Local 614 and the IBT effective immediately, and that he also be immediately and permanently barred from holding office

or accepting employment with the IBT or any IBT affiliate in any capacity. Consistent with the foregoing, we recommend that:

1. Brother Proctor be permanently barred from accepting any compensation from Local 614, Joint Council 43, or any other IBT entities, including salaries, severance pay, allowances, fees, or compensation of any kind, except for any vested benefits he may have earned under any established benefit programs;
2. Brother Proctor be permanently barred from participating in any manner in any of the activities or affairs of Local 614, Joint Council 43, or any other IBT entities; and
3. Brother Proctor be permanently barred from communicating with any IBT officers, employees, or members regarding any matter.

Respectfully submitted,

Date: 7/21/06


David W. Laughton

Date: _____

John Cuite

Date: _____

Mike Stapleton

or accepting employment with the IBT or any IBT affiliate in any capacity.
Consistent with the foregoing, we recommend that:

1. Brother Proctor be permanently barred from accepting any compensation from Local 614, Joint Council 43, or any other IBT entities, including salaries, severance pay, allowances, fees, or compensation of any kind, except for any vested benefits he may have earned under any established benefit programs;
2. Brother Proctor be permanently barred from participating in any manner in any of the activities or affairs of Local 614, Joint Council 43, or any other IBT entities; and
3. Brother Proctor be permanently barred from communicating with any IBT officers, employees, or members regarding any matter.

Respectfully submitted,

Date: _____

David W. Laughton

Date: July 19, 2006



John Cuite

Date: _____

Mike Stapleton

FROM : TEAMSTERS LOCAL 385
07/18/2006 15:18 FAX 202 624 6884

FAX NO. : 4072979097
IBT LEGAL DEPT.

Jul. 19 2006 10:00AM P9

008/008

or accepting employment with the IBT or any IBT affiliate in any capacity.
Consistent with the foregoing, we recommend that:

1. Brother Proctor be permanently barred from accepting any compensation from Local 614, Joint Council 43, or any other IBT entities, including salaries, severance pay, allowances, fees, or compensation of any kind, except for any vested benefits he may have earned under any established benefit programs;
2. Brother Proctor be permanently barred from participating in any manner in any of the activities or affairs of Local 614, Joint Council 43, or any other IBT entities; and
3. Brother Proctor be permanently barred from communicating with any IBT officers, employees, or members regarding any matter.

Respectfully submitted,

Date: _____

David W. Laughton

Date: _____

John Cuite

Date: 7-21-06



Mike Stapleton