

# 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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December 10, 2009

## VIA UPS GROUND

Mr. Michael Conway  
6167 Reach Street  
Philadelphia, PA 19111-5923

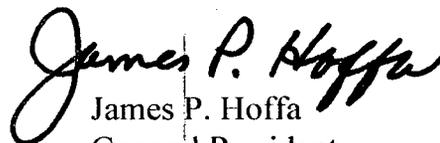
Re: Panel Report and Recommendations

Dear Sir and Brother:

You will find enclosed the Report and Recommendations of the Panel that 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  
Hearing Panel  
Roland Acevedo, Esq.  
Teamsters Local Union 107  
Independent Review Board  
Charles M. Carberry, Esq.

**REPORT AND RECOMMENDATIONS OF HEARING PANEL  
APPOINTED BY THE GENERAL PRESIDENT TO HEAR  
CHARGES AGAINST LOCAL 107 MEMBER AND  
PENNSYLVANIA CONVENTION CENTER STEWARD  
MICHAEL A. CONWAY**

Introduction

On June 22, 2009, the Independent Review Board ("IRB") issued a Report to International Brotherhood of Teamsters ("IBT") General President James P. Hoffa, recommending that Michael A. Conway, a member of Local 107 in Philadelphia, Pennsylvania, be charged with bringing reproach upon the IBT by knowingly associating with a permanently barred individual, Thomas Ryan ("Ryan"). General President Hoffa filed the charge, as recommended by the IRB, appointed a Hearing Panel ("Panel") and scheduled a hearing for August 25, 2009.

Prior to that date, Brother Conway entered into an agreement with the IBT which provided that he would be permanently barred from holding Union office or employment, barred from serving as a Union steward for a period of five years and suspended from membership for a period of three years. On September 17, 2009, IRB advised the IBT that it would not approve the agreement, noting that the "sanction range in analogous cases has run from permanent bars to a 10 year bar in membership."

By letter dated October 29, 2009, the General President notified Conway that a hearing on the charges was rescheduled for November 20, 2009. A hearing was convened on that date at the offices of Joint Council 53, which are located at 3460 N. Delaware Ave, Suite 310, Philadelphia, Pennsylvania. The Hearing Panel was comprised of Mike Stapleton, President of Local 385, Sean O'Brien, President of Local 25 and William Cunningham, President of Local 641. Conway appeared with counsel on that date and had the opportunity to submit evidence and testimony, to examine witnesses, and to present arguments in support of his position. The IBT was represented by attorney Roland R. Acevedo; Conway was represented by attorney Katherine D. Hartman. Both attorneys made professional presentations which have assisted the Panel in understanding the issues and evidence.

The following findings and recommendations of the Panel are based upon the entire record in this case including a transcript of testimony offered at the

hearing, the other documents entered into evidence, the Panel's consideration of the testimony, including the demeanor of Brother Conway when he testified at the hearing, and the arguments of counsel.

### Background

Brother Conway has been a member of Local 107 since 1982. He served as a Union steward for approximately eight years when he worked for a freight company. He started working in the convention and exposition industry in Philadelphia in 1992. Since 1993, he has served as a Union steward at the Pennsylvania Convention Center. In this connection, since 2002, Local 107 has paid for Conway's cell phone, which he used in connection with his responsibilities as steward.

Shortly after IRB's Report in this matter issued, Brother Conway resigned his position as steward, although he remains an active member of Local 107 and the IBT.

### The Charges

In its June 22, 2009 Report, IRB alleges that Brother Conway knowingly associated with Thomas Ryan, who had been permanently barred by the IBT. Ryan was permanently barred by Joint Council 53 in 1999, following IRB recommended charges.

IRB alleged that between February of 2002 and March of 2007 there were at least 46 telephone calls between Ryan's cellular telephone and Conway's Union provided cell phone or Conway's home phone. These included at least 16 calls that were initiated by Conway. Although he initially denied having prohibited contact with Ryan, Conway ultimately admitted to having contact with Ryan after Ryan was barred after being confronted with telephone records obtained by IRB during its investigation.

### The Hearing Panel Proceedings

Brother Conway at the hearing before us admitted he knew that Ryan was permanently barred and admitted to having phone contact with Ryan after Ryan was barred. He asserted that IRB's allegation of 46 calls was "overstated," but admitted there were "probably fifteen" calls. He did not, however, challenge the

authenticity of phone records reflecting 46 calls, upon which IRB relied in its Report.

Although he essentially concedes that he engaged in improper knowing association with Ryan, Brother Conway's lawyer has offered a number of arguments which she contends warrant mitigation of any penalty that might be imposed by the Panel, including the following:

- that Conway made hundreds of calls each day, and is being charged with approximately eight calls per year during the relevant time period, a relatively small number of calls;
- that most of the calls reflected in the records subpoenaed by IRB, and appended to its Report, were relatively short in duration;
- that given that Conway was a rank and file member and served as an unpaid steward, rather than as an elected Union officer or paid employee of the Union, his level of responsibility was less than that of elected officers who have been charged with knowing association with persons permanently barred from the Union, and his penalty should therefore be less than has been imposed where Union officers were the subject of knowing association charges;
- that the offense of knowing association with someone who is barred from Union affairs should be considered no more serious than the offense of embezzlement of Union funds, for which comparatively short suspensions from office have been approved by IRB;
- that Conway may have been the subject of retaliation for testimony he provided in 1999.

#### Discussion

The evidence shows, and Brother Conway admits, that he has on multiple occasions had knowing contact with Thomas Ryan after Ryan's permanent bar. These contacts occurred between February of 2002 and March of 2007, as alleged. Whether the number of contacts was "probably fifteen," as Conway testified before the Panel, or 46, as the phone records obtained by IRB reflect, is not material from

our perspective. A Teamster member who knowingly associates with a person who has been barred from participating in Union affairs violates the Consent Decree, plain and simple, as well as Article II, and Article XIX of the IBT Constitution. The prohibition against knowing association with barred persons is widely known throughout the Teamsters Union, and is a rule with which all members are required to comply if they wish to continue to enjoy the privileges of holding office and membership in the Union.

Here, there is no serious contention, and no evidence which would support a finding by this Panel, that Conway's contact with Ryan was merely fleeting or incidental. There is ample evidence that Conway affirmatively contacted Ryan, and that Ryan contacted Conway, on multiple occasions, over a period of at least five years. The charge of knowing association is, in our view, proved and should be sustained.

#### Recommended Penalty

In considering an appropriate penalty for Brother Conway's improper knowing association with Ryan, we are mindful of factors other IBT Panels have cited in reviewing similar charges. See, for example, the Panel decisions involving Frank Incandella, J.D. Jackson, and Ray Isner. These factors include the following:

1. The timing, nature, frequency and duration of the contacts;
2. Who initiated the contacts and the circumstances in 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 IBT;
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 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 further improper contacts by the charged member and/or others.

As indicated above, IRB previously advised the IBT in rejecting Brother Conway's proffered agreement with the IBT that "the sanction range in analogous cases has run from permanent bars to a 10 year bar in membership." In our view, the foregoing criteria generally militate in favor of imposing discipline at the lower end of that range with respect to Conway.

In this regard, we note that the evidence reflects episodic as opposed to regular or constant contacts between Conway and Ryan, and that a significant number of the contacts were initiated by Ryan rather than Conway. The evidence also shows that most of the telephone calls between Ryan and Conway lasted no more than one to four minutes. More important than this, Conway was not an elected or appointed Union officer or employee. He served as a steward, but was not paid for this service. So far as the Panel is aware, there is no other blemish on Conway's record as a Union member or steward. And, while he was not initially forthcoming in acknowledging his contacts with Ryan, he has ultimately acknowledged the contacts as well as his understanding that the contacts were prohibited. In these circumstances, we view a 10 year suspension of his Union membership and concomitant bar from holding elective or appointed Union office or employment and from serving as a Union steward as adequate to deter him and other members from knowingly associating with Ryan or other barred persons.

Accordingly, in light of the foregoing findings, the Panel recommends that effective immediately Michael A. Conway be:

1. Suspended from membership in Local 107, the IBT or any other affiliate of the IBT for a period of ten years;
2. Barred for the same ten year period from seeking or holding elective or appointed office or employment with Local 107, the IBT or any other affiliate of the IBT;
3. Barred for the same ten year period from serving as a Union steward or similar Union representative for Local 107, the IBT or any other affiliate of the IBT;
4. Barred for the same ten year period from seeking or accepting money or other compensation directly or indirectly from Local 107, the IBT

or any other affiliate of the IBT, other than receipt of any vested benefits to which he may be lawfully entitled by virtue of service completed prior to the effective date of this Report. This restriction shall not, however, prevent Conway from receiving benefits lawfully earned under any benefit fund that may be affiliated with Local 107, the IBT or any other affiliate of the IBT in connection with any work performed, consistent with the other restrictions recommended in this Report, under a collective bargaining agreement negotiated by Local 107, the IBT or such IBT affiliate.

5. Prohibited for the same ten year period from having any contributions made on his behalf to any IBT affiliated benefit funds by any IBT affiliate.
6. Prohibited for the same ten year period from participating in the affairs of Local 107, the IBT or any other affiliate of the IBT.
7. Prohibited for the same ten year period from contact and association with officers, members, employees, representatives and agents of Local 107, the IBT or any other affiliate of the IBT.

SO UNANIMOUSLY DECIDED AND RECOMMENDED ON  
DECEMBER 9, 2009.

By:   
Mike Stapleton

By: \_\_\_\_\_  
Sean O'Brien

By: \_\_\_\_\_  
William Cunningham

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By:   
Sean O'Brien

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William Cunningham

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DECEMBER 9, 2009.

By: \_\_\_\_\_  
Mike Stapleton

By: \_\_\_\_\_  
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By: William Cunningham  
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General Secretary-Treasurer

202.624.6800  
www.teamster.org

March 15, 2010

Mr. Michael Conway  
6167 Reach Street  
Philadelphia, PA 19111-5923

Re: IRB Correspondence of February 23, 2010

Dear Mr. Conway:

On March 3, 2010, I wrote to you regarding my preliminary conclusion that you are barred under my decision of December 10, 2009, from serving as a captain or co-captain on motion picture projects under Local 107's jurisdiction for a period of ten years. I also provided you with an opportunity to provide me with any contrary arguments or evidence on this point by March 12, 2010.

Having received no response from you, I hereby conclude that under my earlier decision you are barred from serving as a captain or co-captain on motion picture projects under Local 107's jurisdiction for the ten year period starting effective on December 10, 2009. In regard to motion picture projects within the jurisdiction of other Local Unions, the application of this bar will depend on whether the particular Local influences the selection of captains and co-captains and whether or not captains and co-captains within that Local's jurisdiction handle employee grievances or otherwise represent members in connection with their employment. If the answer to either question is affirmative, the bar will apply in that Local as well.

Very truly yours,

A handwritten signature in black ink that reads "James P. Hoffa".

James P. Hoffa  
General President

Mr. Michael Conway  
March 15, 2010  
Page 2

JPH/brb

cc: John J. Cronin, Jr.  
Charles M. Carberry, Esq.  
William Hamilton  
Thomas Kohn, Esq.  
Katherine D. Hartman, Esq.  
Ron Schwab  
General Executive Board  
Hearing Panel  
Roland Acevedo, Esq.