

# INTERNATIONAL BROTHERHOOD OF TEAMSTERS

JAMES P. HOFFA  
General President  
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Washington, DC 20001



KEN HALL  
General Secretary-Treasurer  
202.624.6800  
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March 16, 2015

Mr. Gerald A. Pauli  
25 Norwich Place  
Evansville, IN 47725

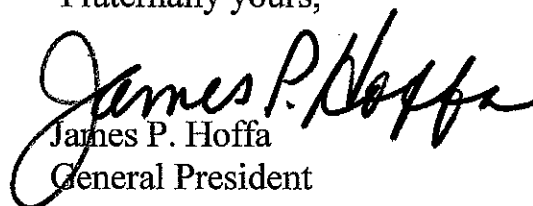
Re: Panel Report and Recommendations

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/brc

cc: Hearing Panel  
General Executive Board  
John T. Coli, Trustee, Local Union 710  
Independent Review Board  
Charles M. Carberry, Esq.  
Roland Acevedo, Esq.  
Bradley T. Raymond, Esq.

**REPORT AND RECOMMENDATIONS OF HEARING PANEL  
APPOINTED TO HEAR CHARGES AGAINST FORMER LOCAL 710  
OFFICER GERALD PAULI**

**Introduction**

On August 15, 2014, the Independent Review Board (“IRB”) issued a report to Local 710 Trustee John Coli, recommending that former Local 710 officers Michael Sweeney, Gerald Pauli, Charles DeCola, Larry Alexander, Anthony Lamy and Kevin Wagoner be charged as follows:

While serving as officers and members of Local 710 between October 2008 and September 2013, you brought reproach on the IBT and breached your fiduciary duty to protect the members’ assets in violation of Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution by failing to inquire when necessary into the principal officer’s purchase and disposition of gift cards, approving in November of 2011 the purchase of gift cards and approving in January 2013 the delegation of blanket authority to the principal officer to dispose of “surplus items,” without inquiring into what these “surplus items” comprised or their value.

On August 20, 2014, Trustee Coli referred the charges to General President Hoffa, who on August 21, 2014 adopted and filed them. Subsequently General President Hoffa appointed a Hearing Panel (“Panel”) comprised of the following uninvolved members: Robert Mele, President of Local 988, Gary Dunham, Secretary Treasurer of Local 238 and Michael Simeone, Secretary Treasurer of Local 17. Brother Mele was designated to serve as the Panel’s chair. The Panel was given the responsibility of hearing the evidence and making a full report to General President Hoffa.

By letters dated September 24, 2014, General President Hoffa notified Brothers Sweeney, Pauli, DeCola, Alexander, Lamy and Wagoner that a hearing on the charges was scheduled for October 15, 2014 at the offices of Teamsters Joint Council 25, which are located at 1300 W. Higgins Road, Suite 200, Park Ridge, Illinois.

Prior to the hearing, Brothers Sweeney, Pauli, DeCola and Lamy each executed settlement agreements resolving the charges against them which were submitted to IRB for its consideration. The DeCola and Lamy agreements were

approved by IRB. The Sweeney and Pauli agreements were not, however, approved. Subsequently, Brother Sweeney executed a revised agreement, which was approved. Because of the then-pending and approved settlement agreements, only the charges against Brothers Alexander and Wagoner were presented to the Panel at the hearing on October 15, 2014. We subsequently issued a report containing our recommendations to the General President regarding Alexander and Wagoner, which he adopted and IRB found to be “not inadequate.”

After it became clear that Brother Pauli would not sign a revised agreement, a hearing before us was rescheduled for February 20, 2015. The hearing was conducted on that date. Brother Pauli was present, and had the opportunity to submit evidence and testimony, to call witnesses if he wished and to present arguments on his behalf. The charges were presented by Roland R. Acevedo, Esq.

The following findings and recommendations of the Panel are based on the entire record in this case, including exhibits and sworn testimony appended to IRB’s report, the transcript of testimony at the Panel hearing, other documents entered into evidence, the Panel’s consideration of Brother Pauli’s testimony and demeanor at the hearing and the arguments made in support of and against the charges.

### **Background**

Local 710’s office is located in Mokena, Illinois. It has approximately 14,000 members. It was placed into trusteeship on or about July 30, 2014, based on a recommendation from the IRB.

### **Gerald Pauli**

Immediately prior to the trusteeship, Gerald Pauli was serving as Local 710’s Vice President and was employed by the Local as a Business Agent. He was removed from those positions by the Trustee. He has testified that he has been a member of Local 710 and the IBT since 1983. He was elected to serve as a Business Agent for Local 710 in 1994. In 2004, he was elected to serve as the Local’s Recording Secretary, and he became the Local’s Vice President in 2011. In addition, he has served as a trustee of the Local 710 Soft Drink Pension Fund.

## **Summary of IRB's Evidence Supporting the Charges**

Between October 2008 and September 2013 members of the Local 710 Executive Board, including Brother Pauli, authorized the Local's Principal Officer to expend thousands of dollars of Local Union funds for gift cards. This authorization was provided without requiring the Principal Officer to be accountable for the number of cards purchased, ensuring that the number of cards purchased matched the stated purpose for the cards or verifying the disposition of the cards.

For example, at an Executive Board meeting in November of 2011, which Brother Pauli attended, the purchase of 1,000 \$25 gift cards was unanimously approved by the Executive Board. The minutes of the meeting state that the cards were for distribution at the November membership meeting. The record reflects that 598 members attended the November 2011 membership meeting, which was an unusually high turnout. Each member filled out a meeting attendance card which, at the end of the meeting, was exchanged for one \$25 gift card. The Executive Board required no accounting by the Principal Officer for the approximately 400 undistributed gift cards, which were worth \$10,000. There is no evidence that Pauli or any other members of the Executive Board even asked him about them.

It is also clear from the record that at an Executive Board meeting in January of 2013, the Executive Board, including Brother Pauli, unanimously approved a resolution giving the Local's Principal Officer the authority "to distribute to, or use for, the Membership, surplus items as he deems appropriate, which were previously purchased for specific occasions throughout the year, and approved for [sic] by the Executive Board." There is no evidence that Pauli or any other member of the Executive Board inquired into what these "surplus items" comprised or what they were worth.

## **Arguments presented at the hearing.**

At the hearing before us, Brother Pauli asserted that he was never "allowed to look at the financial records of the Local" and that because of this he was unable to verify the disposition of excess gift cards. He further claimed that he "did a lot of business on good faith" and that he "operated under the premise that [his] boss, Mr. Flynn" did "everything right." He admitted he was aware that there were excess gift cards from the purchases the Executive Board authorized, but "was

under the assumption and very real assumption that any excess cards would be used for Union purposes.”

Similar to the testimony provided by Brothers Alexander and Wagoner in the hearing regarding the charges against them, Brother Pauli suggested that when the Executive Board approved the purchase of 1,000 gift cards in November of 2011 it had been initially informed that they would be distributed to members at the November and December membership meetings. The minutes for that meeting were subsequently corrected to reflect that the gift cards would be distributed at only the December membership meeting. Nonetheless, and just like the other members of the Executive Board, it is undisputed that Pauli initiated no follow up after it became apparent that he had voted to authorize the purchase of more gift cards than were necessary to fulfil the stated purpose of distributing them to members at a single membership meeting.

With respect to the action taken by the Executive Board in January of 2013, which gave the Local's Principal Officer blanket authority to dispose of “surplus items,” Pauli acknowledged that he was present and voted in favor of this action, that he understood it applied to gift cards that had been previously purchased and that he did not know how many gift cards were going to be disposed of.

### **Analysis and Recommended Conclusions**

The evidence shows, and Brother Pauli effectively concedes, that he failed to exercise his responsibility as a member of the Local Union's Executive Board with respect to monitoring the principal officer's purchase and distribution of gift cards. The ultimate result was that just under \$60,000 worth of gift cards cannot be accounted for.

We are not, in this regard, persuaded by Brother Pauli's claims that he was not allowed to review the Local's financial records, that he trusted the Principal Officer to act in good faith, that he was not permitted to attend IBT provided training or that the stated purpose for the purchase of 1,000 gift cards in 2011 changed from a distribution at two membership meetings to one. Pauli was the second ranking officer in the Local and had a fiduciary duty to monitor the disposition of excess gift cards. He clearly did not do so.

As with Brothers Alexander and Wagoner, and indeed all of the members of the Local Executive Board, we recognize that Local Union subordinate officers will likely find it awkward to challenge the actions of a popular and long term

Principal Officer. But, verifying that Union funds were used for the sole and exclusive benefit of the membership lies at the very core of their fiduciary responsibilities. Union officers do not fulfil these core responsibilities by simply ratifying all actions of the Union's principal officer without question.

Accordingly, we recommend that the charges that Brother Pauli breached his fiduciary duty by failing to monitor or inquire into the purchase and disposition of gift cards be sustained.

### **Recommended Penalties**

In formulating penalties in disciplinary cases brought under the IBT Constitution we are guided by principles of "just cause." This means we will consider factors such as the nature and seriousness of the offense, the member's prior service and disciplinary record, the member's position in the Union and the existence of any mitigating circumstances. Progressive discipline may be appropriate in some situations.

The charged offenses here warrant removal of Brother Pauli from office. He has been a full time officer of the Local for fully ten years, and since 2011 has been the Local's second highest ranking officer. Although he testified he had not been authorized to attend IBT training, he acknowledged he understood that gift cards purchased by the Local's principal officer were equivalent to cash, and that he did not hold the Principal Officer accountable when gift cards were purchased but not completely distributed.

On the other hand, we are not aware that Brother Pauli has previously faced any disciplinary charges under Article XIX of the IBT Constitution, and we acknowledge that the charges here involve no claim that he acted dishonestly or in order to enrich himself at the members' expense.

In these circumstances, we believe the following penalties are appropriate:

- Brother Pauli has been previously removed from his position as Local 710's Vice President. We believe he should remain permanently disqualified from seeking, accepting or holding any office in Local 710 or any successor to Local 710, and that he should be disqualified from seeking or holding any office in any other IBT affiliate for a period of three years from the date of this Report.

- Brother Pauli should, in addition, be disqualified from seeking, accepting or holding any employment, position or consulting or similar relationship, whether paid or unpaid, with Local 710, any successor to Local 710 or any other IBT entity for a period of three years from the date of this Report.
- In addition, during the foregoing three year period, Brother Pauli should receive no payments, salary, gratuities, gifts, severance payments, allowances, fees, benefit payments or contributions or any other compensation of any kind from Local 710, any successor to Local 710 or any other IBT affiliated entities, except that he may receive any pension, vacation or other benefits from existing benefit plans or programs maintained by Local 710 or other IBT affiliated entities that may have vested or accrued prior to his removal from office by the Trustee. He may also receive payment for any salary or expenses he earned or incurred in connection with his work on behalf of Local 710 prior to his removal by the Trustee. He may also receive compensation during this three year period in connection with any service he may perform as an employee of an employer covered under a collective bargaining agreement negotiated or administered by Local 710 or any other IBT affiliate.
- We do not, however, believe that suspending Brother Pauli from Union membership is warranted. In this regard, we do not believe that permitting him to remain an active member of the Union presents any risk to the members' assets or property.

SO UNANIMOUSLY DECIDED AND RECOMMENDED, on March \_\_\_\_,  
2015.

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Robert Mele

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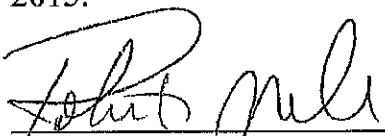
Gary Dunham

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Michael Simeone

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SO UNANIMOUSLY DECIDED AND RECOMMENDED, on March 12  
2015.

  
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Robert Mele

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Gary Dunham

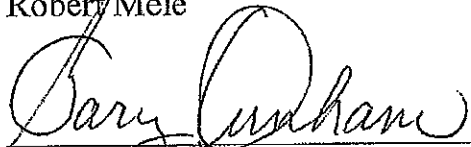
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SO UNANIMOUSLY DECIDED AND RECOMMENDED, on March \_\_\_\_, 2015.

Robert Mele



Gary Dunham

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SO UNANIMOUSLY DECIDED AND RECOMMENDED, on March 12, 2015.

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Robert Mele

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Gary Dunham

 3/12/15  
Michael Simeone