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September 11, 2007

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

Re: Decision on Charge Against Francis J. Gillen

Dear Mr. Hoffa:

After review of all submissions and review of the General Executive Board's decision of August 3, 2007, in the above-referenced matter, the IRB finds the decision to be not inadequate.

Very truly yours,

Members of the
Independent Review Board

By: 

John J. Cronin, Jr.
Administrator

cc: Andrew S. Hoffmann, Esq.
Paul L. Knight, Esq.
Charles M. Carberry, Esq.
Bradley T. Raymond, Esq.
Francis J. Gillen

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
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August 3, 2007

By UPS Next Day Air

Mr. Francis J. Gillen
International Vice President
International Brotherhood of Teamsters
3460 North Delaware Avenue, Suite 301
Philadelphia, PA 19134

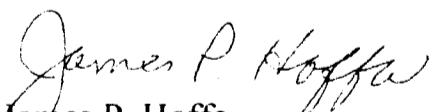
Re: Decision on Charge Filed Pursuant to IRB Referral

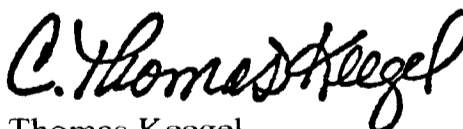
Dear Sir and Brother:

Please be advised that in accordance with Article XIX, Section 4(d) of the IBT Constitution, the General Executive Board, by a 2/3's vote of uninvolved members hearing the charge, has adopted the Report and Recommendations of the Panel assigned to conduct the hearing on the charge that was issued against you, pursuant to the referral of the Independent Review Board.

A copy of the Panel's Report and Recommendation is enclosed. The penalties are effective immediately.

Fraternally yours,


James P. Hoffa
General President


C. Thomas Keegel
General Secretary-Treasurer

JPH/CTK/brb
Enclosure

cc: General Executive Board
Joint Council 53 Executive Board
Pennsylvania Conference of Teamsters Executive Board
Local 500 Executive Board
Charles M. Carberry, Esq.
Mr. John J. Cronin, Jr.
Andrew Hoffman, Esq.
Roland Acevedo, Esq.

**REPORT AND RECOMMENDATIONS OF HEARING PANEL
APPOINTED TO HEAR CHARGES AGAINST INTERNATIONAL VICE
PRESIDENT, JOINT COUNCIL 53 PRESIDENT, LOCAL 500 PRESIDENT
AND PENNSYLVANIA CONFERENCE OF TEAMSTERS PRESIDENT
FRANCIS J. GILLEN**

Introduction

On April 26, 2007, the Independent Review Board (“IRB”) issued a report and recommendation to International Brotherhood of Teamsters (“IBT”) General President James P. Hoffa that Francis J. Gillen, a member of Local 500, President of Local 500, President of Joint Council 53, President of the Pennsylvania Conference of Teamsters and IBT Vice President from the Eastern Region, be charged with bringing reproach upon the IBT by failing to cooperate with IRB during a sworn examination on February 1, 2007. Specifically, IRB’s referral alleged that Brother Gillen gave “intentionally false testimony concerning [his] association with permanently barred member Thomas Ryan.” The referral asserted that this conduct violated Article II, Section 2 (a) and Article XIX, Sections 7 (b) (1), 7 (b) (2) and 14 (i) of the IBT Constitution.

The General President filed the charge, as recommended by IRB. In accordance with Article XIX, Section 6 of the IBT Constitution, he appointed a Hearing Panel (“Panel”) consisting of three International Vice Presidents, Carroll E. Haynes, Freddie Simpson and Tom Fraser. The Panel was charged with the responsibility for making a full report to the General Executive Board.

By letter dated May 24, 2007, the General President notified Brother Gillen that a hearing on the charge was scheduled for July 11, 2007. A hearing was convened on that date at the Sheraton Suites Philadelphia Airport in Philadelphia, Pennsylvania, at which all parties were present and had the opportunity to submit evidence and testimony, cross examine witnesses and present arguments in support of their positions. The IBT was represented by attorney Roland R. Acevedo. Brother Gillen was represented by attorney Andrew S. Hoffman. Both attorneys have been given the opportunity to make post-hearing submissions, which have been duly considered.

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, other documents entered into evidence, the Panel’s consideration of the

witnesses' testimony and demeanor and the post-hearing submissions of the parties.

Background

Brother Gillen has been a Teamster member since 1968. He is also an experienced Local and International Union official. He is currently the President of Local 500, the President of Joint Council 53, and the President of the Pennsylvania Conference of Teamsters. He was recently sworn in as an International Vice President, having been elected to office in the 2006 IBT International Officer Election.

This matter arises out of sworn testimony provided by Brother Gillen before the IRB on February 1, 2007. During that testimony, Gillen was asked about and flatly denied having contact with Thomas Ryan, a former member, after Ryan was permanently expelled and barred from the Union on February 9, 1999. Paragraph E.10 of the Consent Decree between the IBT and the Government and the IBT Constitution prohibit Teamster officers, members and employees from knowingly associating with any individual who has been permanently barred. Ryan had submitted a sworn affidavit dated April 4, 2006, in connection with legal proceedings pertaining to his expulsion from the IBT, which asserted that he had participated in numerous conversations with Brother Gillen after Ryan was barred. Phone records subpoenaed by the IRB also were alleged to reflect as many as 95 telephone calls between Gillen and Ryan, subsequent to February 9, 1999.

Brother Gillen now admits he spoke with Ryan after Ryan was barred, on possibly more than 10 occasions, but asserts that the conversations related to Ryan's eligibility for lifetime medical benefits under a health and welfare plan for which Gillen served as a trustee and that for this reason they were permissible despite Ryan's lifetime bar. He also asserts that his sworn denials of contacts with Ryan on February 1, 2007, though inaccurate, were the product of a faulty memory caused by a stroke he experienced on January 15, 2007.

Procedural Issues

Beginning on June 18, 2007, in several letters, at least one telephone conversation, and on the record at the hearing and in his post hearing submission, Brother Gillen (through counsel) has raised three procedural issues: 1) that the General President's appointment of the Panel to conduct the hearing and make recommendations to the General Executive Board is contrary to Article XIX,

Section 4 (d) of the IBT Constitution (which he contends mandates a hearing before the entire General Executive Board); 2) that the General President must be disqualified from participating in this matter (since he accepted IRB's referral and issued the charge against him); and 3) that the hearing should be adjourned so that critical testimony and other evidence can be obtained. These contentions were addressed in writing by counsel to the Panel and by General Secretary-Treasurer Keegel.

The Panel rejects counsel's claim that the charges against Brother Gillen can only be tried before the entire General Executive Board. The consistent past practice, dating back at least 35 years, has been that charges against members of the General Executive Board are initially heard by three member panels appointed by the General President to make recommended findings for submission to the General Executive Board under Article XIX, Section 4 (d). This practice is supported by the specific and plain language of Article XIX, Section 6, which states that "[i]n a case where a trial ... before the General Executive Board ... is required under the provisions of the Constitution, ... the General President ... may have such trial ... conducted before a panel appointed by the General President"

The Panel likewise rejects the claim that the General President must recuse himself from exercising his authority to appoint the Panel under Article XIX, Section 6 because he issued the charge against Brother Gillen following IRB's referral. There is no claim that the General President or any members of this Panel are "involved" in the matters alleged in the charge or that they are otherwise biased against Brother Gillen. As General Secretary-Treasurer Keegel pointed out in his correspondence of July 5, 2007, the General President's responsibilities with respect to matters referred by IRB are ministerial and his acceptance of the charge in no way indicates his views on the underlying merits.

Counsel's adjournment requests are also without merit. Brother Gillen was notified of the recommended charge against him shortly after IRB issued its referral on April 26, 2007. At the same time, he was informed of the ninety (90) day deadline imposed on the IBT to "file the charge, hold a hearing and forward a final written report to the IRB." He had more than ample time (2 ½ months to be precise) to retain non-conflicted counsel and prepare his defense.

Summary of Evidence Against Brother Gillen

The IRB charge adopted and filed by the IBT alleged that Brother Gillen gave intentionally false testimony during his February 1, 2007, sworn examination. In that testimony, Brother Gillen admitted that he knew Thomas Ryan, admitted that he was aware that Ryan was permanently barred in 1999, admitted he read about Ryan's permanent bar when it was published in the Teamster magazine and unconditionally denied having any contact with Ryan after Ryan was permanently barred. The critical testimony was as follows:

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.

.....

Q. Do you know where Thomas Ryan works?

A. Yes ma'am.

Q. And where does he work?

A. Tri-state Health and Welfare.

Q. And when did you learn of this?

A. I don't know. Maybe 2000, 2001. I don't have the correct date.

Q. How did you find out Mr. Ryan was an employee of Tri-state Health and Welfare?

A. I walked over there one day for – I was the agent; I seen him there.

Q. And Tri-state Health and Welfare, that's owned by Frank Vaccaro?

A. Yes, ma'am.

Q. They have union members there?

A. Yes, ma'am.

Q. Now, when you saw Mr. Ryan at Tri-state Health and Welfare, what location was that?

A. I have to think of the address where they were. I believe it was Cherry – no, no, no. Laurel Springs, I guess. That's his address.

Q. Laurel Springs?

A. Yes, that's the area, the township.

Q. Is that Mount Laurel?

A. Mount Laurel, Laurel Springs, all comes into one.

Q. Now, what year did you see Mr. Ryan?

A. Could be 2000. Before that I really don't have the correct answer.

Q. You said around 2000?

A. Somewhere around there.

Q. When you saw Mr. Ryan, did you have any conversation with him?

A. No, ma'am.

Q. Did he speak to you at all?

A. No, ma'am.

Q. Did he greet you, Mr. Ryan, when he saw you?

A. No, ma'am.

Q. Now, have you had any conversations with Mr. Vaccaro regarding Thomas Ryan?

A. No.

Q. Have you seen Mr. Ryan at any Vaccaro & Associates functions?

A. No, ma'am.

....

Q. Now, Mr. Gillen, did you ever meet with Thomas Ryan after he was barred to tell him that you would help him in his case to get him reinstated as a Teamster member?

A. No, ma'am.

Q. Have you ever met with Mr. Ryan in a South Philly diner to discuss his case in how he can be reinstated as a Teamster member after he was barred?

A. No, ma'am.

Q. Have you ever provided any Teamster documents to Mr. Ryan after he was barred?

A. No, ma'am.

IRB contends that Brother Gillen's repeated denials of contact with Ryan are contradicted by an April 4, 2006, sworn affidavit submitted by Ryan to the Federal Court in connection with his efforts to have his permanent bar overturned and by phone records subpoenaed after his February 1, 2007, sworn examination.

The affidavit contains the following statements:

- "In the last several years, I have had a dozen conversations with Frank Gillen who succeeded previous Vice President John Morris. ..."

-
- “Mr. Gillen and I have talked perhaps a dozen times since late 2000/early 2001. We have known each other for a very long time. Mr. Gillen communicated with me his satisfaction that he now knew that the charges that were brought against me by the Joint Council were not appropriate. He informed me they were instigated, processed and decided by John Morris, an IBT Vice President as well as the former President of the Joint Council. I recall some time in 2001 sitting with Mr. Gillen at a South Philadelphia diner in which he told me that he looked at the minutes of the charges which had been filed against me in 1996 and told me that those charges were never, in fact, signed off on and voted on by members of the Joint Council other than Mr. Morris himself. In support of that assertion, he showed me the minutes of the Joint Council meeting. Indeed at no time was my case ever brought up before the Joint Council and he (Gillen) told me that he desired that my case be reopened.”
 - “Since that time, I have had numerous conversations with him and he has continued to tell me as well as other individuals that he would like very much to reopen my case because of the fact that I was treated unfairly by Mr. Morris.”
 - “Additionally, I was in discussions with Mr. Gillen about trying to settle all of my legal matters with some resolution relative to my membership status or my ability to hold office or some other resolution of the case since I felt, and even Mr. Gillen felt, that I had been unfairly treated by being first suspended and then permanently kept out of office because of John Morris’ decisions.”

The subpoenaed phone records reflect 95 telephone contacts between telephones associated with Ryan and Gillen between July of 1999 and October of 2001 (all after Ryan was barred). They include calls to Ryan’s home from Gillen’s Union cell phone, calls to Ryan’s home from Gillen’s home phones and calls to Gillen’s home from Ryan’s home phones. Many of the calls, including nine calls initiated from Gillen’s Union cell phone to Ryan’s home phones exceeded one minute.

Brother Gillen’s responses to the charges

At the hearing before the Panel, Brother Gillen offered evidence in support of a number of contentions, including the following:

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1. That Brother Gillen has an “impeccable” reputation for truthfulness and integrity, according to Hon. Robert A. Brady, a Member of the United States House of Representatives.
 2. That in November of 2004, Ryan attempted to obtain a copy of certain minutes of Joint Council 53, thereby casting doubt on his sworn claim to have been shown these minutes by Brother Gillen back in 2001.
 3. That Brother Gillen’s wife was responsible for “several of the phone calls or possibly many of the phone calls” reflected in the phone records. She testified to occasions in which Ryan called and left messages for Brother Gillen (which she passed on to her husband), others in which she hit the redial setting on the phone after receiving anonymous “hang up” phone calls and Ryan answered, others in which she called unfamiliar numbers that appeared on her phone bill and Ryan answered and at least two occasions when Ryan called and she handed the phone over to Brother Gillen.
 4. That Brother Gillen suffered a stroke on January 15, 2007, which affected his memory on February 1, 2007 and caused him to forget his conversations with Ryan during his sworn examination.
 5. That all of Brother Gillen’s conversations with Ryan after Ryan was barred concerned Ryan’s efforts to secure lifetime medical coverage under a plan for which Brother Gillen serves as a trustee, and were therefore permissible under the Consent Decree.
 6. That Brother Gillen did not provide copies of Joint Council 53 minutes to Ryan and never had “breakfast in a diner with Mr. Ryan in 2001 in South Philadelphia.”

Analysis

Judging a colleague and fellow member of the IBT’s General Executive Board is the most difficult task any of us has ever been asked to perform. We have each approached our responsibility in serving on this Panel with an open mind, mindful of Brother Gillen’s right to a full and fair hearing and of the requirement that the burden of proof must be met with respect to every allegation in the charge. The evidence, however, compels us to conclude that the charge that Brother Gillen

failed to cooperate with IRB by giving false testimony during his sworn examination concerning his associations with Ryan has been sustained.

We do not come to this conclusion lightly, or without carefully considering each of the claims offered in his defense. It is uncontroverted that on February 1, 2007, Brother Gillen unqualifiedly and repeatedly denied having any contact with Ryan after Ryan was barred. It is uncontroverted that Brother Gillen knew that Ryan was permanently barred in 1999, and knew that this meant he was prohibited from associating with Ryan. Brother Gillen now concedes that his denials of contact with Ryan were inaccurate.

Although not conceding the accuracy of the Ryan affidavit or the inferences from the subpoenaed phone records that Brother Gillen had some 95 telephone contacts with Ryan, he admitted initially during his testimony before us that he had spoken with Ryan during the period from 1999-2001 using his Union cell phone “[m]aybe four or five times.” He testified that on one occasion in 1999, Ryan told him he “wanted his case re-looked at, and he wanted his health care.” Brother Gillen elaborated that Ryan told him that he was barred by Joint Council 53 when he (Ryan) was 49 ½ years old, and that this had caused him to just miss being eligible for lifetime medical benefits under the Welfare Fund of which he had been a participant.

Brother Gillen later testified, before us, that in 2000 he became a fiduciary for the Welfare Fund, and thereafter had conversations with Ryan on his cell phone and from home “[o]n a few occasions.” He testified that between 1999 and 2001 he had “eight or nine” conversations with Ryan. He also conceded that his wife had told him of a number of calls from Ryan, which he ultimately characterized as “frequent.” Later in his testimony, after being shown phone records reflecting not fewer than 14 phone calls to Ryan from his Union cell phone alone, he admitted he could actually have spoken with Ryan more than ten times during the pertinent time period. He nonetheless stated that these calls all concerned Ryan’s desire to obtain healthcare for his sick wife.

In our view, the difference between 95 calls reflected in the phone records and the in excess of 10 conversations that Brother Gillen now admits to is immaterial. Brother Gillen flatly testified on February 1, 2007, that he had no contact with Ryan whatsoever after Ryan’s bar, and he now concedes that he had in excess of ten conversations with Ryan and offers vivid details about what was discussed.

We do not consider especially helpful to Brother Gillen's cause his efforts to suggest that his contacts with Ryan were permissible given that they pertained to Ryan's efforts to secure lifetime medical benefits under a Welfare Plan for which Gillen was serving as a fiduciary. Not only is the argument that Gillen spoke to Ryan solely in his capacity as a Plan fiduciary something of a stretch,¹ 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.

Additionally, the efforts to cast doubt on the veracity of Ryan's affidavit are underwhelming. Brother Gillen's secretary asserts that in November of 2004 she received and destroyed a handwritten communication from Ryan seeking a copy of the minutes from Ryan's hearing before the Joint Council at which he was suspended. Although Brother Gillen's lawyer suggested that this shows that the Ryan affidavit is not credible, we do not consider her testimony to be necessarily inconsistent with the assertion in Ryan's affidavit that Brother Gillen had discussed the minutes with Ryan some time in 2001 and at that time had showed him a copy. The questions posed by Gillen's counsel during the hearing before us about the supposed 2001 meeting between Ryan and Brother Gillen do not accurately or fairly meet the actual statements in Ryan's affidavit, and likewise do little to help us in determining whether or not to credit the Ryan affidavit:

Q. Did you ever review the minutes of the Joint Council Executive Board when they decided to bar Mr. Ryan?

A. No.

Q. Did you ever provide a copy of those minutes to Mr. Ryan?

A. No.

Q. Did you ever have breakfast with Mr. Ryan in a diner in 2001 in South Philadelphia?

¹ For example, Brother Gillen testified that in 1999, Ryan called him and said he hoped "you're going to look at my case." Later, he testified that in early 2000, Ryan called him and said: "You're the new Joint Council president. I hope you're really going to take this into consideration of my health care. As you well know, I got a sick wife." Neither of these statements suggests that Ryan was appealing to Gillen as a Plan fiduciary.

A. No.

In this regard, Ryan's affidavit did not say that Brother Gillen had seen the minutes in 1999 when the Joint Council decided to bar him, did not say that Gillen had provided a copy of the minutes to Ryan in 2001 (as opposed to showing it to him) and did not say that Gillen and Ryan had met in a south Philadelphia diner for "breakfast."

Because Brother Gillen now admits that he had possibly more than 10 contacts with Ryan after Ryan was barred, we find it unnecessary to decide whether the statements set forth in Ryan's affidavit are true.

We are unable to conclude that Brother Gillen's false testimony on February 1, 2007, was caused by a stroke he suffered on January 15, 2007. Although the evidence establishes that he was treated for a stroke on January 15, and that for perhaps a month thereafter he was unusually fatigued and experienced bouts of forgetfulness concerning day-to-day matters, the record does not establish that he experienced wholesale lapses in memory regarding past events. Before the Panel, Brother Gillen initially offered a significantly different explanation, when he was asked why he had falsely denied having contacts with Ryan:

Q. Do you recall today during your Examination being asked if you had had conversations with Mr. Ryan after he was barred?

A. Yes.

Q. Do you know how you answered?

A. No.

Q. Do you know how you answered? You know how you answered. Correct?

A. Sure.

Q. And what was your answer that you gave?

A. I believe I said, "No."

Q. And why did you say, "No"?

A. 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 the health and welfare. I thought under the health and welfare, me being the chair, him fighting for his health care, I was the only one allowed to talk to him. That's it.

Brother Gillen's lawyer immediately followed up this exchange by eliciting a contention that he had not recalled the conversations with Ryan when asked about them during his IRB sworn examination. It is difficult, however, to square an asserted lack of recollection with Brother Gillen's initial contention that the inaccurate testimony resulted from the fact that the phone calls had occurred "long ago," that he "wasn't thinking straight" and that he felt he was legally entitled to speak with Ryan about Ryan's claim for lifetime medical benefits.

In either case, the transcript of his February 1, 2007, 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.

And while it is certainly plausible that Brother Gillen's medical condition might have clouded his judgment on February 1, 2007, the failure by Brother Gillen to offer this explanation to IRB either before or after IRB issued its referral is inexplicable.

In these circumstances, we find that Brother Gillen did provide intentionally false testimony regarding his contacts with Ryan during his February 1, 2007, sworn examination, as charged.

Recommended Penalty

Having concluded that Brother Gillen failed to cooperate with IRB by giving false testimony about his association with Ryan, we have the additional responsibility of recommending appropriate penalties. In doing so, we are mindful of the "just cause" standard embedded in the Consent Decree, which among other things mandates that discipline be "reasonably related" to the seriousness of the offense and take into consideration the member's prior service to the Union and

prior disciplinary record. E.g., Enterprise Wire Co., 46 LA 359, 364 (Daugherty, 1966).

“Cooperation by all IBT members with the IRB is essential if the Consent Decree is to serve its intended purpose.” Michael C. Bane , Opinion and Decision of IRB, 7-17-01, page 21. False testimony before the IRB does not constitute “cooperation” and is considered serious. We agree with this assessment, despite the views of some that our society is becoming complacent about the requirement of truthful testimony when witnesses testify under oath. See Statement by President Bush on Executive Clemency for Lewis Libby (July 2, 2007).

Our review of previous cases in which members have been charged with providing false testimony to IRB reveals penalties ranging from permanent expulsion to somewhat more modest remedies such as suspension from office and/or membership. Among the cases we have reviewed are the following:

- Michael C. Bane – Mr. Bane, former President of Local 614, was permanently barred as a result of his false testimony concerning past associations with organized crime figures in the Detroit area. IRB noted that Bane’s false testimony regarding associations with organized crime “strikes at the core of the Consent Decree” and concluded that “[g]iven the position of responsibility that Bane had and now holds as president of a large local union and the absence of any mitigating factors, the only suitable remedy is to permanently bar Bane from holding membership in ... the IBT, or any IBT-affiliated entity [or] from obtaining employment, consulting or other work with the IBT or any IBT-affiliated entity.” Opinion and Decision of IRB, 7-17-01, page 21.
- Edward J. Mireles – Mr. Mireles, former Secretary-Treasurer of Local 952 and an International Vice President, was suspended from membership for four (4) years and barred from holding Union office for seven (7) years for providing false testimony concerning his involvement in a practice of manipulating the dues payments of Local Business Agents for the purpose of rendering them ineligible to run for office. Opinion and Decision of IRB, 10-17-00.
- Terrence Freeman – Mr. Freeman, former Secretary-Treasurer of Local 507, was suspended for three (3) years for providing false testimony to a Grand Jury and to IRB concerning whether he had ever

met with certain company officials to urge them to curtail certain activities of members who were running on a rival slate. Decision of IRB, 1-31-00.

- Patrick Green – Mr. Green, a member of Local 295 who held no Union office, was suspended for two (2) years for providing false testimony to IRB regarding whether he had worked for a business for which he had provided volunteer services. IBT Panel Decision, 8-14-00.
- J.D. Potter – Mr. Potter, former Secretary-Treasurer of Local 19 and a candidate for International Vice President, was suspended from membership for three (3) years and barred from holding office for five (5) years for providing false testimony to the Election Office concerning the source of certain campaign contributions. Affidavit and Agreement, 8-4-00.
- Kevin Watts – a member of Local 531 who held no Union office, was suspended for three (3) years for testifying falsely about the use of Local 531 vehicles. IBT Panel Decision, 4-6-00.
- James Bernadone – former Secretary-Treasurer of Local 531, was suspended for five (5) years for testifying falsely about the use of Local 531 and for entering into at least four (4) sham contracts. IBT Panel Decision, 4-6-00.

After reviewing the foregoing precedents, and considering the particular circumstances of this case, we have concluded that the appropriate penalty for Brother Gillen should be a suspension from membership for three (3) years and a bar from holding elected or appointed office or employment with the IBT or an IBT affiliate for five (5) years. In recommending these penalties, we have considered the seriousness of the offense and Brother Gillen's high positions of responsibility in the Union. We have also considered a number of mitigating circumstances, including the possibility that Brother Gillen's judgment may have been clouded by his medical condition. We are compelled to point out that unlike the Bane case Brother Gillen's false testimony did not concern contacts with organized crime figures, but simply contacts with a member who had been permanently barred. This factor, along with Brother Gillen's long and otherwise unblemished service to the Union, and impeccable reputation in the community, are also mitigating circumstances.

We note that our recommended penalties can hardly be characterized as lenient. Lewis "Scooter" Libby, who was recently convicted by a federal jury of the crimes of perjury and obstruction of justice, will be a year past the end of his two year probation by the time Brother Gillen will be able once again to become a member of the IBT. In the meantime, Brother Gillen will be forbidden from having even social contact with Teamsters for three years. It will not be for another two years after he becomes eligible for membership that Brother Gillen will be able to hold Union office or employment. In particular, he will be ineligible to hold or run for any Union office until well after the 2011 election for International Officers. We are convinced that these penalties will adequately discipline Brother Gillen for his conduct and will deter future attempts to mislead IRB during sworn examinations.

Conclusion

Accordingly, based on the foregoing, the Panel recommends the following sanctions:

1. Brother Gillen is barred from seeking or holding office, position or employment, directly or indirectly, with the IBT or any other IBT affiliated entity or Fund for a period of five (5) years, effective immediately. During this five (5) year period, Brother Gillen is barred from seeking or accepting money or other compensation from the IBT, or any other IBT affiliated entity or fund, except for any vested benefits to which he may otherwise be lawfully entitled by reason of service or employment prior to the date of this decision, and may not receive or have any contributions made on his behalf to any IBT-affiliated benefit funds by any IBT-affiliated entity, except to the extent such contributions relate to offices held or services performed prior to the date of this decision; and
2. Brother Gillen is barred from holding membership in the IBT or any IBT-affiliated entity for a period of three (3) years, effective immediately. During this three (3) year period, Brother Gillen is barred from participating in any way in the affairs of the IBT or any other IBT affiliated entity or Funds, and shall also be barred from all contact and association with

officers, members, employees, representatives and agents of the
IBT or any IBT affiliated entity or Fund.

SO UNANIMOUSLY DECIDED AND RECOMMENDED on July __, 2007.

By: Carrol E. Haynes
Carrol E. Haynes

By: Freddie Simpson
Freddie Simpson

By: Tom Fraser
Tom Fraser

officers, members, employees, representatives and agents of the
IBT or any IBT affiliated entity or Fund.

SO UNANIMOUSLY DECIDED AND RECOMMENDED on July __, 2007.

By: _____
Carrol E. Haynes


By: Freddie Simpson
Freddie Simpson

By: _____
Tom Fraser

officers, members, employees, representatives and agents of the
IBT or any IBT affiliated entity or Fund.

SO UNANIMOUSLY DECIDED AND RECOMMENDED on July 24, 2007.

By: _____
Carrol E. Haynes

By: _____
Freddie Simpson


By: _____
Tom Fraser