

TO: IBT Local 522 Executive Board  
FROM: Members of the Independent Review Board  
RE: Proposed Charges Against Local 522 Member John Fazio  
DATE: October 14, 1996

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**I. RECOMMENDATION**

The Independent Review Board refers the below report to the Executive Board of Local 522 for the purpose of initiating charges against Local 522 member John Fazio for failing to cooperate with the IRB by refusing to appear for a sworn examination scheduled for September 18, 1996. By failing to appear for his sworn examination, it appears that while an IBT member John Fazio violated Article II, Section 2(a) and Article XIX, Section 7(b)(1) and (2) and Section 14(i) of the IBT Constitution by obstructing, interfering and unreasonably failing to cooperate with the duties of the IRB as set forth in Paragraph G of the March 14, 1989 Consent Decree in United States v. International Brotherhood of Teamsters, 88 Civ. 4486 (S.D.N.Y.).<sup>1</sup>

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<sup>1</sup> In April 1994, the IRB recommended that three Local 522 members, John, Robert and Vincent Martinelli, be charged with failing to cooperate with the IRB by failing to appear for their sworn examinations. On August 5, 1994 the Local 522 Executive Board permanently barred John, Robert and Vincent Martinelli from the IBT. On September 12, 1996 the IRB recommended that five Local 522 members, Angelo Paolino, Thomas Paolino, Angela Paolino, Michael DiGangi and Robert Wachtel, be charged with failing to cooperate with the IRB by failing to appear for their sworn examinations. These charges are pending before the Local 522 Executive Board.

## II. INVESTIGATIVE FINDINGS

John Fazio ("Fazio"), date of birth March 6, 1961, who resides at 490 Harold Avenue, Staten Island, New York, is currently a member of the IBT and Local 522. (Ex. 1)<sup>2</sup> Local 522 records reflected that Fazio's dues were paid through September 1996. (Ex. 2)

According to Local 522 records, John Fazio is the only Local 522 member employed at J & T Security Systems ("J & T"). (Ex. 3) Publicly available New York State Department records show that John Fazio is the Chairman of the Board of J & T. (Ex. 4)

It appears that on behalf of J & T, John Fazio signed the current collective bargaining agreement with Local 522. (Ex. 5) The bargaining unit defined in this collective bargaining agreement was "all office and supervisory employees employed by the Employer excluding other employees, temporary employees, casual employees, guards and watchmen." (Id.) The collective bargaining agreement between Local 522 and J & T does not include any discussion of wages. (Id.) It appears to be designed solely to provide health benefits for the company Chairman. The exclusion of the other workers, the owners' sole membership and that only health insurance is covered, is evidence to show that Fazio's membership in the IBT was obtained fraudulently.

On September 4, 1996, a notice of sworn examination was

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<sup>2</sup> Local 522 records showed that John J. Fazio resides at 490 Harold Ave, Staten Island, New York and that former Local 522 member John Martinelli also resides at that address. (Ex. 2)

sent to John Fazio by overnight express mail scheduling his sworn examination for September 18, 1996. (Ex. 6) The notice was sent to his home and business addresses. At this examination, the Chief Investigator planned to question Fazio about his Local 522 membership, the collective bargaining agreement between Local 522 and J & T, and whether he had contact with any organized crime figures.<sup>3</sup>

On September 5, 1996, Annette Martinelli signed a return receipt card indicating that the notice of sworn examination had been received at 490 Harold Street, Staten Island, New York, the address Local 522 records listed for John Fazio. (Ex. 10) On September 6, 1996, Annette Martinelli signed a return receipt that the notice of sworn examination to John Fazio had been received at J & T's offices, 396 Brighton St. Staten Island, New York. (Ex. 11) On September 18, 1996, without explanation, John Fazio failed to appear for his sworn examination. (Ex. 12)

### III. PROPOSED CHARGES

Based upon the foregoing, it is recommended that John Fazio be charged as follows:

While a member of Local 522 and the IBT, you brought

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<sup>3</sup> On February 18, 1993, a complaint entitled United States of America against John Fazio, No. 93-0341M, was filed in United States District Court for the Eastern District of New York, (Ex. 7), followed on March 9, 1994 by an information, Cr. No. 94-161 (DGT) in which Fazio was charged, together with others, with counterfeiting VISA traveler's checks. (Ex. 8) Fazio pled guilty in July 1994 and received three years probation and 10 months home confinement. (Ex. 9)

reproach upon the IBT in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(1) and (2) and Section 14(i) of the IBT Constitution and obstructed, interfered and unreasonably failed to cooperate with the duties of the Independent Review Board as set forth in paragraph G of the March 14, 1989 Consent Decree in United States v. International Brotherhood of Teamsters, 88 Civ. 4486 (S.D.N.Y.) to wit:

On September 18, 1996, you willfully and without justification refused to appear for your sworn in-person examination pursuant to Paragraph H.3 (c) of the Rules and Procedures for Operation of the Independent Review Board for the International Brotherhood of Teamsters.

EXHIBITS TO REPORT CONCERNING JOHN FAZIO

- Ex. 1 Excerpt from Local 522 Membership List regarding John Fazio
- Ex. 2 Titan Printout Concerning John Fazio
- Ex. 3 Excerpt from Local 522 Employer Roster regarding J & T Security Systems
- Ex. 4 Corporate Records Concerning J & T Security Systems
- Ex. 5 Copy of a signed collective bargaining agreement between Local 522 and J & T Security Systems
- Ex. 6 September 4, 1996 Notice of Sworn Examination sent to John Fazio
- Ex. 7 Complaint 93-0341M, United States v. John Fazio, in the Eastern District of New York
- Ex. 8 Information, Cr. No. 94-161 (DGT) Against John Fazio
- Ex. 9 Judgment in United States v. John Fazio
- Ex. 10 Return Receipt signed by Annette Martinelli dated September 5, 1996
- Ex. 11 Return Receipt signed by Annette Martinelli dated September 6, 1996
- Ex. 12 Record of John Fazio's failure to appear for his sworn examination on September 18, 1996

INDEPENDENT REVIEW BOARD  
444 North Capitol St., NW, Suite 528  
Washington, DC 20001  
(202) 434-8080  
Facsimile (202) 434-8084  
Corruption Hotline (800) CALL IRB

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010  
FO-143

Chief Investigator:  
Charles M. Carberry, Esq.  
17 Battery Place, Suite 331  
New York, NY 10004

Administrator:  
John J. Cronin, Jr.

Board Members:  
Grant Crandall, Esq.  
Crandall, Pyles & Haviland  
1021 Quarrier Street  
Charleston, WV 25301  
Frederick B. Lacey, Esq.  
LeBoeuf, Lamb, Greene & MacRae  
One Riverfront Plaza  
Newark, NJ 07102-5490  
William H. Webster, Esq.  
Milbank, Tweed, Hadley & McCloy  
1825 Eye Street, NW, Suite 1100  
Washington, DC 20006

November 13, 1996

IBT Local 522 Executive Board  
139-16 91st Avenue  
Jamaica, NY 11435

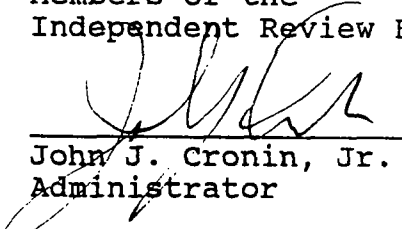
Re: Decision on Charges against Local 522  
Member, John Fazio

Dear Members of Local 522 Executive Board:

The Independent Review Board has reviewed your decision of November 1, 1996, 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: Judith A. Scott, Esq.  
David Neigus, Esq.

BEFORE THE LOCAL 522 TRIAL AND  
EXECUTIVE BOARD

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In Re Charges Against:

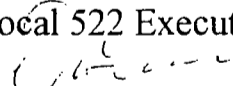
John Fazio,

Charged Party.

A Charge having been duly filed and evidence considered against the member named above ("Charged Party"), and after a trial hearing being called and no appearance at the date and time set for trial after due notice, the Trial Board of the Local Union hereby issues the following determination.

1. The charge is sustained.
2. The following penalty is imposed:
3.
  - A. The Charged Party is permanently barred from being an officer or member of Local 522 and the IBT.
  - B. The Charged party is permanently barred from holding any position, including any consultant position with Local 522 and/or any IBT entity including the Welfare and Pension Funds.
  - C. The Charged party is permanently barred from receiving any salary, severance payment, allowance, fee benefit, gratuity, gift, or compensation of any kind from the Local 522 Welfare Fund and any other affiliated IBT plan, provided however, that the charged party may receive any fully vested pension benefit he may have.

Dated: November 7, 1996

Local 522 Executive Board,  
  
John Ferrara, Secretary-Treasurer

**Minutes of the hearing on charges  
brought against Local 522 member  
John Fazio**

Pursuant to written notice dated October 15, 1996, mailed on October 17, 1996 a hearing on charges dated October 16, 1996 by Michael Ianniello, a member in good standing, was held on October 30, 1996 at 11:00 am at the Union offices at 139-16 91<sup>st</sup> Avenue, Jamaica, New York. Mr. Ianniello is the Recording Secretary of the Local Union and is the Charging Party, John Akalski was asked to act as acting secretary for the hearing. Mr. Ianniello however has been serving on jury duty in Supreme Court, Bronx County and is fact sequestered for deliberations. The charges were therefore read by Albert Olin.

Present were the following members of the Executive Board, convening as a Hearing Board:

*John Ferrara  
Albert Olin  
Clarence Whittaker  
John Akalski  
James Kennedy*

The hearing was called to order by Brother Ferrara, Secretary-Treasurer of the Local. He stated that the purpose of the hearing was to hear the charges filed against this member by Michael Ianniello. He stated that the charges were filed pursuant to a report dated October 14, 1996 by the Independent Review Board of the International Union. The report states that the member involved refused to appear for a sworn examination before the Review Board scheduled for October 8,

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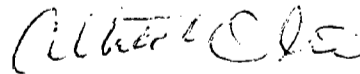
1996.

Presented to the Trial Board Exhibit 1, the October 14, 1996 letter with attachments to Local 522 from John J. Cronin, Jr., the Administrator of the Independent Review Board. As Exhibit 2 the charges dated October 16, 1996 against the member. As Exhibit 3 the notice of hearing issued to this member dated October 15 1996 and mailed October 17, 1996 along with proof of delivery.

After review, upon motion duly made, seconded and carried, the following findings were made.

1. The charges against this member have merit. This Board is without jurisdiction to review the findings of the Investigations Office and the Local Union was given a specific recommendation as to the charges to be filed against this member and no instruction has been received to hold the disposition of the charges in abeyance;
2. The discipline set forth on Exhibit C attached to these minutes is imposed;
3. Notice of the results of this hearing is to issued to the member and the Independent Review Board.

Respectfully Submitted,



Acting Secretary to the Board