

**INTERNATIONAL BROTHERHOOD OF TEAMSTERS
TEAMSTERS JOINT COUNCIL 41
CLEVELAND, OHIO**

**IN THE MATTER OF ARTICLE XIX
CHARGES BROUGHT AGAINST:**

RICHARD 'CHUCK' COLLINSON,)
President, Teamsters Local Union 20,)

-AND-)

MARTIN JAY,)
Trustee, Teamsters Local Union 20,)

-AND-)

DAWN T. CHRISTEN,)
Staff Attorney, Teamsters Local Union 20.)

CASE NO. 41-1701

EXECUTIVE BOARD REPORT

AND

DECISION

July 24, 2017

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**TEAMSTERS JOINT COUNCIL 41
EXECUTIVE BOARD REPORT AND DECISION**

**ARTICLE XIX CHARGES AGAINST TEAMSTERS LOCAL UNION 20
OFFICERS RICHARD “CHUCK” COLLINSON, MARTIN JAY, AND
STAFF ATTORNEY DAWN T. CHRISTEN**

CASE NO. 41-1701

I. INTRODUCTION AND PROCEDURAL MATTERS

This proceeding involves disciplinary charges brought under Article XIX, Section 7 of the International Brotherhood of Teamsters (“IBT” or “Union”) Constitution and Article XX of the Teamsters Local Union No. 20 (the “Local Union” or Local 20”) amended and restated Bylaws (the “Bylaws”, **Panel Exhibit 1**) by Sister Rachel Marshall (“Charging Party”), a seven year office employee and member of Local 20, against Local Union President and Principal Officer Richard “Chuck” Collinson, Local 20 Trustee and Business Representative Martin Jay, and Local 20 Staff Attorney and employee Dawn T. Christen (collectively, the “Charged Parties”). Sister Christen also is a member of the Local Union.

Teamsters Joint Council No. 41 (the “Joint Council” or “JC41”) was requested to assume jurisdiction over the charges by a majority of the Executive Board of Local 20, as represented in two letters to the Joint Council dated March 14, 2017 and April 18, 2017, from Local Union Secretary-Treasurer Diana “Corky” Hymore. **Panel Exhibits 3, 5.** Local 20’s correspondence stated, in relevant part, that “[a]fter thorough investigation, it was unanimously decided by the remaining Executive Board, . . . to defer the charges to the Joint Council 41. We came to this determination because of the nature of the charges, the closeness of the charged parties and difficulty in personalities.” *Id.* The

Local 20 Executive Board did not technically “decline to process the charges” within the meaning of Article XIX, Section 1(d) of the IBT Constitution, but rather ‘deferred’ to the Joint Council for the reasons stated, and the Joint Council President subsequently determined that JC41 should assume jurisdiction and serve as the trial body in this case.

By separate letters to Sister Hymore, dated February 22, 2017, February 23, 2017, April 14, 2017, and April 17, 2017, Sister Marshall filed misconduct charges against the aforementioned two Officers and staff attorney on various grounds, as discussed below. **Panel Exhibits 2, 4.**

The Joint Council provided notice of a hearing by letters to the Charging Party and Charged Parties, dated April 26, 2017, and a hearing was scheduled for Friday, May 19, 2017, at the JC41 headquarters in Cleveland, Ohio. **Panel Exhibit 6.** Prior to the hearing, by letter dated May 16, 2017, the Joint Council requested that Sister Hymore provide all information relating to the Local Union’s “thorough investigation” of the matter, as represented in her March 14, 2017 letter to the Joint Council. **Panel Exhibit 7.** In response, Sister Hymore provided documents prior to the hearing, which were accepted as panel exhibits as follows:

- (1) February 22, 2017 charges letter from Sister Marshall to Sister Hymore
(**Panel Exhibit 7A**);
- (2) July 7, 2015 typewritten statement by Sister Marshall¹ (**Panel Exhibit 7B**);
- (3) February 23, 2017 charges letter from Sister Marshall to Sister Hymore
(**Panel Exhibit 7C**);

- (4) February 28, 2017 billing statement of Niehaus, Wise & Kalas, Ltd., Attorneys at Law (**Panel Exhibit 7D**);
- (5) April 11, 2017 typewritten statement to Brother Collinson, from Local Union 20 Executive Board members Hymore, Norm Lewallen, Diane Helf, and Mark Schmiehausen (**Panel Exhibit 7E**);
- (6) SEPARATION AGREEMENT AND RELEASE OF ALL CLAIMS and TERMINATION NOTICE, undated and unexecuted (**Panel Exhibit 7F**);
- (7) April 14, 2017 charges letter from Sister Marshall to Sister Hymore (**Panel Exhibit 7G**);
- (8) April 17, 2017 charges letter from Sister Marshall to Sister Hymore (**Panel Exhibit 7H**);
- (9) Teamsters Local 20 Legal Defense Fund Plan and Agreement, dated June 30, 2014 (**Panel Exhibit 7I**);
- (10) Teamsters Local 20 Legal Defense Fund booklet, undated (**Panel Exhibit 7J**);
- (11) Teamsters Legal Defense Fund Benefits, undated (**Panel Exhibit 7K**);
- (12) Teamsters Local 20 Legal Defense Fund tri-fold brochure, undated (**Panel Exhibit 7L**); and
- (13) April 26, 2017 email from Local 20 member, Jillian Teague to Sister Hymore (**Panel Exhibit 7M**).

¹ This statement was signed by "Rachael Lee" which is the name Sister Marshall used in 2015.

On May 19, 2019, the parties themselves appeared and offered evidence in the form of documents and testimony, and argued their respective positions to the Executive Board.² A verbatim record of the proceeding was maintained, consistent with Article XIX, Section 1(c) of the IBT Constitution.³ Sister Marshall was assisted by Local 20 member Twanda D. Williams; Brother Jay was assisted by Tom Vellequette, another Local 20 member, and Brother Collinson and Sister Christen represented themselves at the hearing. Witnesses called by the parties were separated from the hearing room, except when testifying. Tr. 10.

At our hearing, Sister Christen first objected to those charges against her that relate to alleged violations of the Ohio Rules of Professional Conduct for Attorneys, citing that such claims are beyond the jurisdiction of internal proceedings under the IBT Constitution and Local 20 Bylaws, and further that Sister Marshall reportedly filed similar complaints against Sister Christen with the Toledo Bar Association Grievance Committee, which are currently under review. Tr. 6. After conferring in closed session on this matter, the Executive Board determined that that Sister Christen's procedural objection was well taken and decided that it would not rule on any alleged misconduct by an attorney under the Ohio Rules of Professional Conduct, or any claimed violations of the Ohio Revised Code ("O.R.C.") by a party. Tr. 8, 11-12.

There were no other procedural objections raised concerning this proceeding or

² Brother Collinson, one of the Charged Parties herein, is a Trustee on the Executive Board of the Joint Council and, therefore, consistent with Article XIX, Section 1(a) of the Constitution, he was recused from all consideration of these charges, including, but not limited to, the appointment of a substitute member to the Joint Council Executive Board. Sister Mary Zart, Recording Secretary of Teamsters Local Union No. 436, was appointed by JC41 President Patrick J. Darrow to sit on the Executive Board for purposes of this proceeding. Tr. 8.

³ All references herein to "Tr." refer to the transcript of the JC41 Executive Board hearing held on May 19, 2017.

the charges. *Id.* At the conclusion of the hearing, the record was closed and the following constitutes the Joint Council Executive Board's report and decision in this matter.

II. ALLEGATIONS

The allegations against all three Charged Parties stem, principally, from those charges Sister Marshall first advanced against Brother Jay on February 22, 2017. **Panel Exhibit 2.** For that reason, the following discussion will address her allegations raised against that party (Brother Jay) first, then against Brother Collinson, and lastly the charges filed against Sister Christen.

LOCAL 20 TRUSTEE & BUSINESS AGENT MARTIN JAY

Sister Marshall alleges that she has been the victim of verbal harassment, sexual harassment, sexual discrimination, intimidation in the workplace, hostile work environment, and retaliation by Brother Jay, all of which she claims also constitute "conduct unbecoming" of a Teamsters Officer. Her charging letter (**Panel Exhibit 2**) alleges that in or about June of 2015, Sister Marshall verbally filed a complaint against Brother Jay for the latter's use of a vulgar, inappropriate name, using the "C" word. She stated in her complaint letter that Sister Hymore (Local 20 Office Manager at the time) handled the complaint and that, when confronted, Brother Jay agreed this would never happen again. Her statements also allege that since June of last year, Brother Jay has repeatedly asked Sister Marshall to go to lunch with him, invitations which she declined and since that time she has received constant inappropriate remarks and innuendos from Brother Jay. Sister Marshall further believes that Brother Jay has retaliated against

her, and has taken adverse job actions against her, for filing the complaints against him with the Local Union, when Brother Jay was named the Office Manager of Local 20.

Sister Marshall maintains that by such misconduct, Brother Jay violated: (i) his oath of office under Article XIX, Section 7(b)(2) of the IBT Constitution, (ii) oath of membership, under Article I, Section 2, (iii) the anti-retaliation provisions of Article XIX, Section 7(b)(8), (iv) the inclusive provision of Article XIX, Section 7(b)(1), and (v) the Local Union's "No Harassment" policy. **Panel Exhibit 2.**

LOCAL 20 PRESIDENT RICHARD 'CHUCK' COLLINSON

Sister Marshall also filed two sets of charges against Brother Collinson, one on February 23, 2017, and the second set on April 17, 2017. The first charges (February 23, 2017) allege that Brother Collinson disregarded her complaints of verbal sexual abuse, and permitted behavior by Brother Jay that was unbecoming of a Teamsters Officer. The second set of charges allege that Brother Collinson: (i) violated procedures for processing internal charges, (ii) engaged in a conspiracy to retaliate against her, (iii) committed acts of retaliation, (iv) unlawfully harassed her, and (v) terminated her employment without just cause.

With respect to the first set of charges, Sister Marshall alleged that on or about January 25, 2017, she informed Brother Collinson that Brother Jay had used vulgarity toward her (not the first time) and he promised at that time it would not happen again. Her complaint continues that Brother Jay was not reprimanded and, in fact, soon thereafter was, in her words, "promoted" by Brother Collinson to the position of Office Manager, making him her first line supervisor. At the time, according to Sister

Marshall, Brother Jay also served as “Assistant to the President”, under Brother Collinson. She further alleges that three days after this “promotion,” Sister Marshall was transferred from her second-floor office and assigned additional duties assisting the newly employed Staff Attorney Christen, on the first floor of the Local 20 building. She maintained that Brother Jay continued to make discriminatory and offensive remarks to her, even after Brother Collinson assured her that would no longer happen. Sister Marshall also maintained that Brother Jay informed her that the reassignment would be for the next seven or eight months, and perhaps longer. (**Panel Exhibit 2**).

The second set of charges against Brother Collinson claims, essentially, that he conspired to retaliate against her for filing charges against Brother Jay and him, and unjustly terminated her employment in retaliation of her prior complaints. Specifically, Sister Marshall claims that after she filed charges against Brothers Jay and Collinson, the Executive Board was not advised of these developments; then, on or about March 28, 2017, Brother Collinson instructed her to enter his office and perform filing tasks in his absence. Sister Marshall claims she did so, but at that time discovered that a surveillance camera had been installed in Brother Collinson’s office, which made her uncomfortable. Sister Marshall further claims that within days of that assignment, she was first suspended and then terminated from employment with the Local Union by Brother Collinson. At a later meeting held in the Local 20’s office, Sister Marshall maintains, it was revealed that she was suspended pending termination for removing a file from Sister Christen’s desk (and later returned), that was discovered through another surveillance camera installed in the attorney’s office, but hidden from view. She was presented with a proposed “Separation Agreement and Release of All Claims,”

which she rejected and Sister Marshall effectively claims that Brother Collinson and Sister Christen concocted a plan to entrap Sister Marshall by placing her under surveillance and using the video as a pretext for terminating her employment without just cause, thus retaliating against her for filing charges against the Officers and Sister Christen.

Sister Marshall alleges that by such misconduct, Brother Collinson has violated: (i) his oath of office under Article XIX, Section 7(b)(2) of the IBT Constitution, (ii) oath of membership, under Article I, Section 2, (iii) the anti-retaliation provisions of Article XIX, Section 7(b)(8), (iv) the provisions of Article XIX, Section 7(b)(1), (v) the Local Union's "No Harassment" policy, (vi) Local 20's corollary oath of office and membership obligation provisions set forth in Article XXVI and XXIX of the Local Union's Bylaws, and (vii) Article IX, Section 3 of the Local 20 Bylaws, which requires that the "President . . . shall strive at all times to attain and preserve for all workers under the jurisdiction of Teamsters, Chauffeurs, Warehousemen and Helpers Union Local No. 20 just and reasonable working conditions, hours of work and rates of pay, to secure healthful surroundings in their place of employment, and respectful treatment on the part of their employers, to cultivate friendly relations between workers and generally to improve their social, economic and cultural standards." **Panel Exhibit 1.**

By these charges, Sister Marshall also asks that the trial body order the Local Union to reinstate her employment and make her whole for any and all losses sustained, as well as other remedies enumerated in her charging letters.

LOCAL 20 STAFF ATTORNEY DAWN T. CHRISTEN

Sister Marshall alleges, by her charges letter dated April 14, 2017 (**Panel Exhibit 4**), that Local 20 Staff Attorney Dawn T. Christen has violated Article XIX and Local 20's Bylaws by committing acts of: (i) misuse of Local Union property and funds, as well as contributions of the Local 20 Legal Defense Fund ("LDF"), (ii) fraud, (iii) racketeering, (iv) utilizing stolen property, (v) conspiracy to retaliate, and (v) entrapment. The first four of these claims relate to Sister Christen's work as Staff Attorney for the Local Union and its LDF. She first contends that Sister Christen regularly uses a flash drive of legal forms from Local 20's former outside law firm, Gallon, Takas, Boissoneault & Schaeffer (GTB&S) and used them for LDF work, and presumably work for the Local Union. Second, the Charging Party claims that Sister Christen, although licensed to practice law only in the State of Ohio, regularly advised Local 20 members who reside in the State of Michigan on legal matters, and thus, engaged in the unauthorized practice of law. Further, Sister Marshall contends that Local 20 members were charged extra document preparation fees by Sister Christen, even though that work was allegedly covered by the LDF's plan of benefits. She also claims that although Sister Christen presumably was hired as a full-time Staff Attorney by the Local Union, she regularly rendered legal services to other clients, some within the Local 20 building, during regular working hours.

With regard to the allegations of conspiracy to retaliate and entrapment, Sister Marshall claims that Sister Christen, on or about March 1, 2017, queried her on whether she had removed a file from Sister Christen's desk labeled "Local 20 Bylaws", and

Sister Marshall denied doing so. Then, on or about March 29, 2017, according to Sister Marshall's charging letter, she was instructed by Sister Christen to enter the latter's office and search for particular files; she claims that during that search, Sister Marshall found the "Local 20 Bylaws" file on Sister Christen's desk, and removed it to another room to inspect it and then returned it to the desk. Sister Marshall's letter continue that later she re-entered Sister Christen's office, again removed the "Local 20 Bylaws" file, and took a photo of the file from her cell phone. Sister Marshall then claims she returned the file to Sister Christen's desk, unaware that such actions had been recorded on a video camera hidden in the latter's office. She claims that shortly thereafter, she was suspended and then fired by Brother Collinson for such acts.

Sister Marshall alleges that by such misconduct, Sister Christen has violated: (i) the embezzlement provisions of Article XIX, Section 7(b)(3) of the IBT Constitution, (ii) the anti-retaliation provisions of Article XIX, Section 7(b)(8), and (iii) the anti-racketeering provisions of Article XIX, Section 7(b)(11).

III. FACTS ADDUCED AT HEARING, TESTIMONY AND ARGUMENT

The Joint Council Executive Board took due notice of the documents submitted by the Local Union in response to the request for same, the documents identified as **Panel Exhibits 7A** through **7M**, and those submitted by the parties at our hearing. Further, although not all the parties were sworn in as witnesses, we considered their statements on the record to be the given as under oath and truthful, and each party acknowledged that obligation. Tr. 143-144. Accordingly, in reliance on this record, we have made certain findings which are summarized below.

Sister Marshall had been a valued office employee of Local 20 for the past seven years and, as expected, there is almost daily interaction between office personnel and Officers of the Local Union. Tr. 83, 147-148, 201, 225, 249-250. Former President Bill Lichtenwald characterized her as "an excellent employee [doing] . . . a wonderful job." Tr. 250. The interactions between employees have involved business, and non-business subjects alike, and included joking and banter, even 'shop talk' as is the norm for many offices in the Union. Tr. 202. However, in or about June, 2015, in a conversation between Sister Marshall and Brother Jay, he used the "C-word" toward her which obviously offended Sister Marshall to the point of reporting it to then Local 20 Office Manager, Sister Hymore. Brother Jay was confronted and counseled by then Local 20 President Bill Lichtenwald and Sister Hymore, and notations of the exchange were placed in each employee's personnel file. Tr. 20-21, 23, 33-34, 43-44. When asked about the allegation, according to two witnesses, Brother Jay responded with words to the effect, "maybe I did, and maybe I didn't." Tr. 22, 44. Brother Lichtenwald later reported the meeting to Sister Marshall, who did not want to pursue the matter, and, according to him, she said "I just don't want it - - I just want it stopped. I don't like that word." Tr. 253.

Several witnesses testified that Brother Jay has often been flirtatious with female employees of, or those working within Local 20's building, including Sister Marshall. Tr. 28, 46, 53, 70-71. With reference to Sister Marshall, Local Union Recording Secretary and thirteen-year Business Agent, Diane Helf, testified that on one occasion after she brought musk melons into the office to pass out, she heard Brother Jay ask Sister Marshall how her "melons" were, which Sister Helf interpreted as an inappropriate

double entendre reference to Sister Marshall's breasts. Tr. 72-74, 81. Brother Jay deflected the exchange claiming that it occurred with Sister Helf, not Sister Marshall. Tr. 199-200.

Sister Marshall also contended that on or about September 6, 2016, Brother Jay asked whether Sister Marshall was going to share a hotel room with him during an IBT sponsored convention or event, a statement which Brother Jay denied. Tr. 193-194, 210. He also denied stating to her, in reference to a pancake mix dispenser, that he could "cream my pants", during a Local 20 sponsored pancake breakfast. Tr. 194-195. More recently, in or about June of 2016, Brother Jay allegedly called Sister Marshall a 'whore', which she complained directly to Brother Collinson. Tr. 60, 68, 164. Brother Jay again denied that claim. Tr. 198, 210. Further, according to the Charging Party, Brother Jay asked Sister Marshall out to lunch on more than one occasion (to which she declined) and inquired of the area where she lived on the excuse that he drops his laundry off at a dry-cleaning store nearby. Tr. 192-193, 195-196.⁴ Sister Marshall also claims that derogatory statements were made about another female employee's hair, in or about November, 2016, and again on or about February 6, 2017. Tr. 211, 291. Although Brother Jay admitted to making a statement to Sister Marshall regarding another employee's (i.e. Jillian) haircut he denied it was derogatory in any sense.. Tr. 211. Sister Marshall stated that as a consequence of these events, she does not feel

⁴ Brother Jay's explanation for this event is that he called Sister Marshall on her cell phone one day to warn her that an Ohio State Highway Patrol vehicle was in the neighborhood he had just passed through; he stated to us, "I knew that Rachael, because it was right around one o'clock, I knew that she was probably heading back for work. I called her on her cell and I said, keep an eye out, there is a Statey or cop taking pictures right in the construction zone." Tr. 196-197. This made Sister Marshall feel all the more uncomfortable with him, for obvious reasons. Query: Why would Brother Jay warn Sister Marshall about law enforcement in the area, if he didn't already know her area of residence, and if so, how was that not considered intrusive to her?

comfortable around Brother Jay, a fact she communicated to Brother Collinson in January of this year. Tr. 215, 290-291, 340.

Testimony established that when the charges of sexual harassment and hostile work environment were filed with the Local Union on February 22, 2017, the next day Brother Collinson, through Sister Christen, engaged a local private attorney, Patricia Wise of Niehaus, Wise & Kalas, Ltd., to investigate the sexual harassment allegations, including interviewing of interested parties and witnesses. Tr. 110. 142, 264. The following day, however, on February 24, 2017, the engagement was cancelled by the Local Union Executive Board and the independent investigation of the allegations was never completed. Tr. 112-113, 265; see also **Panel Exhibit 7D**.

Testimony also established that the Local Union utilizes security cameras in the Local 20 building, mounted principally outside offices and in hallways. In or about the end of February of this year cameras were also installed in the offices of Brother Collinson and Sister Christen, but the camera in Sister Christen's office was not known either by the Secretary-Treasurer (Sister Hymore) or any other Executive Board member, until this issue arose.⁵ Tr. 95-96, 99-101, 153-154, 392.⁶ Sister Christen stated that she requested that a camera be installed in her office after she could not locate a particular file, the Local Union's Bylaws file and a so called 'investigation' file that included text messages concerning the charges filed against Brother Jay, in which

⁵ There were no other cameras installed in any other Local 20 Officer's or employee's offices in the Local Union building. Tr. 152-153.

⁶ At our hearing on May 19, 2017, the Executive Board members also queried Sister Hymore, the Local Union's Secretary-Treasurer, whether she had seen a bill for purchase and/or installation of the surveillance cameras in Brother Collinson's and Sister Christen's offices; as of that date, she had not. Tr. 392, 394-395. Sister Christen later clarified that she paid for the camera, from her own funds. Tr. 407.

a copy of Sister Marshall's charges against Brother Jay also had been placed. Sister Christen questioned Sister Marshall whether the latter had taken the file, which Sister Marshall denied. Cameras installed in Brother Collinson's office, and Sister Christen's office captured Sister Marshall in March of this year on video tape, and served as the declared basis for Brother Collinson's decision to terminate Sister Marshall's employment for, "the dishonest act of taking pictures of confidential folders". Tr. 102-103, 125, 128; see also Tr. 317-318. Brother Collinson added that "when we asked for her phone, it came back blank. There was nothing on it. We couldn't see what photos were there, what was there. That was the final determining factors." Tr. 128. Sister Marshall responded that "I was told to return Local 20 property. I returned Local 20 property in the same manner as I received the property from the Verizon store. I factory reset it. It is connected to my personal e-mail address. I have personal photos on there. I have personal messages on there. I have my personal business on there. Nobody in their right mind would give that over to somebody else." Tr. 300; see also Tr. 337-338.

Sister Marshall's act of taking photos of the file removed from Sister Christen's desk occurred on or about March 29, 2017, after Sister Christen telephoned the Charging Party that day and directed her to search for particular files, although she also stated that Sister Christen later found the requested files in her hotel room. Tr. 131-134, 138-139; see also 295-296. For her own, Sister Marshall denied taking anything from the file she removed and returned. Tr. 136. She explained that when she found the Bylaws/Investigations file which Sister Christen thought had been lost or stolen, she moved it to an adjacent meeting room, photographed the inside of the file with the

charges, and returned the file to Sister Christen's desk; she did that because she had been accused by Sister Christen of taking those materials and wanted to prove her innocence. Tr. 136-138, 145.

Sister Hymore was called as a witness for both Sister Marshall and Brother Jay, and with regard to the former's reassignment in the Local Union to assist Sister Christen, she stated that "[s]he [Sister Marshall] was doing double duty. She was to do her Local 20 duties, as well as work and help sup up the legal office, and work for Dawn. All the Local 20 duties there isn't time in a 40-hour workweek to do both jobs. Some of her Local 20 duties were moved over to another employee, but she was doing both." Tr. 148-149. She continued, however, that the reassignment of Sister Marshall was discussed and agreed by the Executive Board, as a less expensive alternative than hiring a legal assistant for Sister Christen. Tr. 154-155, 269. The reassignment was unenthusiastically embraced by Sister Marshall, according to the witnesses. Tr. 155, 158.

Brother Collinson stated to us that Sister Hymore, in fact, first suggested that Sister Marshall be assigned the additional legal support duties in January of 2017, and change offices, as a less expensive alternative to hiring a new employee, since Sister Marshall had previous experience assisting attorneys in a law firm. Tr. 269. His first inclination was to hire a new legal assistant to help Sister Christen with the new office, but was convinced by Sister Hymore's logic and instead, reassigned Sister Marshall to additional duties. Tr. 270. Thus, he explained, the transfer and addition of duties to the Charging Party had nothing to do with the charges she filed against Brother Jay on February 22, 2017, and the charges filed against him the following day. *Id.* Essentially

these same facts were confirmed by Sister Hymore, in her testimony. Tr. 306.

Testimony further established that the Local Union was in the midst of changes in duties and assignments in the fall of 2016, and early 2017. For example, the Office Manager position previously held by Sister Hymore for more than six years was transferred to Brother Jay, who prior to that time had no experience running an office. Tr. 159-162, Conversely, Sister Hymore, who had been exclusively an office employee for the Local Union and then elected Secretary-Treasurer, was assigned as a Business Agent. *Id.* She stated that the transfer of duties between Brother Jay and her didn't make a lot of sense to her as a good move for the Local Union. Tr. 161.

Again, Sister Marshall was suspended pending an investigation on or about April 3, 2017. On or about April 11, 2017, during Sister Marshall's suspension, a majority (four of five uninvolved members) of the Executive Board signed and delivered a statement addressed to Brother Collinson, which read: ". . . the undersigned Local 20 Executive Board members disapprove of your recommendation as President to terminate Rachael Marshall. We do not feel that it is in the best interest of this Local Union." **Panel Exhibit 7E.** See also Tr. 115. Sister Hymore clarified that although the statement was couched in terms of a 'recommendation' by Brother Collinson, as principal officer of the Local Union with the right to hire and fire staff employees of the Local Union, the letter was actually meant to object to Brother Collinson's decision to fire Sister Marshall. Tr. 121-122, 127. She explained further that "[t]hat was given to him the day before we had a meeting with Rachael. It was my understanding the Chuck had not made up his mind. She had been suspended now almost two weeks. He had not made up his mind to bring her back, or continue suspension, or terminate. So, even

though he has the power to terminate without a recommendation by the Board, I felt, as well as the others that signed, that we could either help him make his decision, but also for the good of the Local Union, we didn't advise. I didn't advise that." Tr. 150. Vice President Norm Lewallen testified that he did not believe that termination was justified. Tr. 243-244. In spite of this, Brother Collinson terminated Sister Marshall on or about April 14, 2017. **Charged Party (Collinson) Exhibit 2**, p. 9. See also Tr. 282, 288-289, 304.⁷

For his defense, Brother Jay did not offer any other witnesses, but again, his statements to the Executive Board were considered as made under oath. Tr. 172. He flatly denied using the "C" word in reference to Sister Marshall in or about June of 2015, but Sister Helf testified that he used that term referring to another woman, which she scolded him for. Tr. 209-210, see also Tr. 68-69. He further stated that Sister Hymore and former President Lichtenwald inaccurately recalled his response to their inquiry was "maybe I did, maybe I didn't." Tr. 188-189, 192, 207-208, 210. As mentioned, he also denied calling Sister Marshall a 'whore' at any time, and gave alternative explanations for those comments which others might take as improper innuendos. In sum, Brother Jay maintains that the charges are the direct result of a disgruntled employee who was not willing to accept new duties assigned by Brother Collinson, the Local Union's principal officer, and later was dismissed for dishonesty. Tr. 217-218.

Sister Hymore also was called to testify for Ms. Marshall concerning her charges

⁷ It is noteworthy that, post-hearing, the Joint Council received a letter dated June 19, 2017, from Secretary-Treasurer Hymore which simply stated: "Please be advised that Rachael Marshall was reinstated and made whole, effective May 30, 2017. If you have any questions, feel free to contact me at 419-254-3216." **Panel Exhibit 9**.

against Brother Collinson. She confirmed that although Sister Marshall complained to him about a derogatory remark made by Brother Jay, he did nothing about it. Tr. 222, 225. She also confirmed that after this complaint was made, and knowing that she felt uncomfortable with him, Brother Collinson still assigned Brother Jay as her direct supervisor, replacing Sister Hymore as the Office Manager. This witness also testified that Brother Collinson was extremely concerned about text messages that apparently were sent to various Local 20 members and stewards from March 10 through 13, 2017, which falsely stated that Brother Jay had been charged and was 'suspended', and Brother Collinson's belief that Sister Marshall was directly or indirectly responsible for the text messages. Tr. 228-229. He was so concerned that he considered returning Sister Marshall to work, during her suspension, if she provided information on the source of the text messages. *Id*; see also Tr. 323. For her part, Sister Marshall denied any knowledge of, or involvement with, any text messages of that nature.

Brother Collinson responded to the February 23, 2017 charge by noting that, as Local 20's principal officer, he has the authority to change an employee's duties and responsibilities, and that after conferring with Executive Board members in January (pre-dating the charges), he assigned Sister Marshall the additional, legal-related, functions rather than hire a paralegal. Tr. 270. He later said that the assignment was a decision made by the Executive Board. Tr. 276. Brother Collinson also stated at hearing that Sister Marshall's February 23rd charge against him was "retaliation for moving her to the Legal Defense", but the charge letter does not claim, either by factual allegation or reference to the IBT Constitution, that Brother Collinson retaliated against her by changing her duties. **Panel Exhibit 2**; see also Tr. 290, 293. Rather, the first charge

against him alleges that Sister Marshall forewarned him of Brother Jay's sexual harassment incidents, and that he did nothing to stop them, and in fact, effectively promoted Brother Jay as her direct superior even though he knew she was uncomfortable around Brother Jay for the reasons stated. See **Panel Exhibit 2**; see also Tr. 339-340. In defense of this, Brother Collinson stated that he discussed the incidents with Brother Jay, and then assured Sister Marshall that any conduct of that nature would not happen again and future contacts by Brother Jay would have Sister Hymore also present. Tr. 291-293, 312, 324. He stated further that, "Rachael told me she didn't want to proceed any further with it, so I did not." *Id.* At that point, Brother Collinson believed that he complied with the terms and spirit of the Local Union's sexual harassment policy. *Id.*

The second set of charges against Brother Collinson (e.g. retaliation, unjust termination, etc.) were answered by him by offering a video of Sister Marshall depicting her actions in Sister Christen's office on March 29, 2017. **Charged Party (Collinson) Exhibit 5**. The video was viewed by the Chairman at the hearing, and later by all Executive Board members. Tr. 284. Sister Marshall appears in the video to be 'sweeping' Sister Christen's office with a handheld device, which Brother Collinson surmised was a "recorder detecting device, likely attempting to discover whether there was a surveillance camera or other mechanism in her office; the video also shows Sister Marshall removing a file from Sister Christen's desk, taking photos of the file, and then returning the file some minutes later. *Id.* See also Tr. 279-280, 328-329. He stated to us that "I could not have an employee taking pictures of confidential files, give them access to members and Stewards' information." Tr. 281-282. Brother Collinson added

however, in response to President Darrow's question, that he did not have any information to believe that the pictures Sister Marshall took were utilized in a manner outside the Union. Tr. 288. And, further, Brother Collinson admitted that he did not know what picture or pictures were taken by Sister Marshall, whether it was only the Bylaws file, the charges filed against Brother Jay, or the "investigation" file of the text messages. He said, "Truthfully, I can't tell you. I don't have the pictures . . . That's all I've got, her taking pictures of the file." Tr. 330-332. In response, Sister Marshall asserted to us that "I took a picture of the desk, just as it is actually in Chuck's photo. . . to show I did not disrupt anything else on the desk. . . I wanted to take a picture to prove that the charges I filed against Martin were, in fact, in that folder. . . I took a picture of the desk, to prove I didn't touch anything and I took a picture of my charges against Martin to prove that they were, in fact, in there and I had not stolen them. That's all I took pictures of." Tr. 336-337. She also stated that she did not give those pictures to anyone. *Id.* At one point in our hearing, Brother Collinson relayed that "I was trying to figure a way to keep her in the building. I asked several people, where can we put her so she wouldn't have access to anything. I couldn't come up with anything." Tr. 282.

Sister Marshall admitted 'sweeping' Sister Christen's office, "out of paranoia, we will say, because of the treatment that I had received. Not only during the course of Martin Jay's actions but upon filing the charges against Martin and subsequently Chuck Collinson and initially." Tr. 293-294. She further testified:

"I went into the office. The video shows, you can even see a hesitation when I looked at it. Chuck's own pictures show that this file was deliberately left out on that desk. It says on the file Local 20 Bylaws. Nowhere on it does it say

confidential. It is a Teamsters Local 20 file. I am supposed to be a secretary for Teamsters Local 20. Aside from the fact that there was the investigation file in there, there would be no logical reason why I couldn't touch that file, if I am an employee of Local 20. Why an attorney would leave an investigation file inside the Bylaws file, just kind of screams set up to me." Tr. 295.

"The pictures of the files that are on page 7 [referring to **Charged Party (Collinson) Exhibit 2**, p. 7], these files were not in the office. I was sent into the office to look for that file. Attorney Christen has already acknowledged that. She also acknowledged that these files were not in her office. They were in her other briefcase, back in her room. So, to say these were in the office is false." Tr. 295-296.

Brother Collinson maintained at our hearing that he could not verify whether Sister Marshall was involved in the texts to Local 20 members, or determine the photos she took of the file or files in Sister Christen's office, because Sister Marshall had deleted all such information on her cell phone before turning it in to the Local Union. Tr. 318-320. On her termination, Brother Collinson stated "[a]ccurate statement is I took action on what I thought was a violation. Not in regards to her being moved, or Martin, or anything that investigation was going on. I really didn't care. When she took photos is what she got fired for. . . You cannot be taking pictures out of the building of documentation. There is a new policy coming out that will say that." Tr. 319, 321-322.

The charges filed against Sister Christen, again, revolve around the surveillance camera set up in her office, which captures Sister Marshall 'sweeping' the area and

removing and returning a file.⁸ In the main, Sister Marshall charges that Sister Christen ‘conspired’ to retaliate against her through a scheme of entrapment, which led to her termination from employment. It was established during the hearing that the camera(s) in Sister Christen’s office were installed on March 29, 2017, in the same office she had utilized as outside counsel prior to her employment with the Local Union. Tr. 369-370, 413. Sister Hymore testified, after refreshing her recollection from contemporaneous notes created during meetings held on March 31, 2017, that Sister Christen stated to her that surveillance of her office was requested because she did not trust Sister Marshall, her new legal assistant. Tr. 374. 380. Further, that after Sister Marshall was viewed on video taking a file off Sister Christen’s desk, the latter had consulted with a local prosecutor, presumably about possible criminal charges. Tr. 380-381.

Sister Christen did not call any witnesses but stated on her own behalf that she knew that Sister Marshall was not in favor of the Local Union hiring an in-house attorney, and then later recanted that statement as “misspoken.” Tr. 405, 417-418. She also stated that Sister Marshall was upset that the Local Union had engaged an independent attorney to investigate her allegations of sexual harassment against Brother Jay. Tr. 405. Sister Christen continued that when she suspected that a document was missing from her desk drawer, she asked Sister Marshall about it, because “she is the primary person who has access to my office.” Tr. 404-405. She

⁸ The charges filed against Sister Christen include allegations of misuse of Union funds and LDF funds, misappropriation of Union property, conducting a private practice of law while employed by the Local Union, the unauthorized practice of law, fraud, racketeering, etc., which appear more relevant under the Ohio Rules of Professional Responsibility for attorneys, and/or the O.R.C. than the IBT Constitution. Other than as discussed above, the Executive Board has decided not to address those collateral issues that are better suited for determination in other forums. See also Tr. 367-368.

added that, “[i]n regard to those issues, I then started feeling, after the charges came up missing, which was maybe within the first week. The only person I ever asked anything about that to was Rachael. . . I put the hidden camera, at the permission of Chuck, in my office, for when I was not there.” Tr. 406-407. Sister Christen stated that although she was not involved in the investigation of Sister Marshall’s charges against Brothers Jay or Collinson, she was actively working on the issue of texts being sent to Local 20 members from an unknown cell phone, alleging that Brother Jay had been suspended for sexual harassment of Local 20 office workers. Tr. 410. She maintained that the camera was not installed, however, to conspire to retaliate against Sister Marshall, or to entrap her. Tr. 412.

On cross-examination, Sister Christen confirmed that on March 29th, she telephoned Sister Marshall and requested that she search for the “Johns Manville” file, which the former believed had been left in the office. Tr. 413-414. That is the same day, according to the testimony of witnesses, that Sister Marshall is observed on the video taking the subject file from Sister Christen’s desk. Further on cross-examination, Sister Christen’s testimony continued:

Q. Dawn, since you had the cameras installed, how often do you review the footage, if I may ask, before and since Rachael has been discharged?

A. If I’m out of town for an extended period of time, I review it when I come back, if I had it there. I don’t always have them at the office. They are not a permanent - - they are not something that is hard wired.

Q. When did you remove the camera from your office?

A. I removed it probably a couple of days after.

Q. So, you installed it on the day that you called me and told me to go into your office, and you removed it shortly after I was suspended for going into your office; is that true?

A. I did install it. It is a movable camera. It's actually two. Yes, it was a couple of days after, because you were no longer there. Tr. 421.

It was also established by this testimony that Sister Christen's office is accessible by a master key, which most if not all Executive Board members have a copy of, and this was also her stated reason for installation of the camera Tr. 423-425.

IV. DISCUSSION AND DECISION

In order for internal charges of misconduct to be sustained against a member, the IBT Constitution requires that they must be proven by "a preponderance of reliable evidence." Constitution, Article XIX, Section 1(e). That is the standard of proof that must be applied to the charges filed in this case. Thus, the Charging Party must present a preponderance of reliable evidence to support a conclusion that the actions complained of in fact occurred, and further, that such actions or conduct constitute a specific violation of either or both the IBT Constitution or Local 20's Bylaws. The preponderance threshold is met when a party provides more convincing evidence and its probable truth or accuracy, rather than the amount of countervailing evidence presented.

First, we observe that as elected Officers of our great Union, we recognize our oath of membership and oath of office as solemn promises to conduct ourselves at all times in a manner that will not bring reproach upon either the Union or ourselves. The

membership rightfully expects no less when they cast their ballot in our favor for the privilege of representing them, whether it be at the International Union, Joint Council, or local union levels. Decisions of the General Executive Board in the not so recent past confirm our obligations in this regard. Members should expect that their leaders will act in a dignified and respectful manner in all dealings on their behalf, whether it be with employers, members, employees, or anyone else for that matter. Thus, we subscribe to and acknowledge a higher standard of responsibility and conduct when we accept the positions that we are either elected to, or appointed, in our great Union. It is against this backdrop of our internal 'canon of ethics' that we view the allegations raised in this case.

After considering all the evidence presented and the testimony and credibility and demeanor of the witnesses and parties at hearing, we find that a preponderance of evidence has been established that since mid-2015, Brother Jay engaged periodically in episodes of verbal misconduct toward Sister Marshall that finally rose to the level of sexual harassment and creation of a hostile work environment. Notwithstanding his absolute denials of making any improper comments or solicitations to Sister Marshall, which we do not believe, substantial evidence exists of a pattern of crude and hostile comments by him, and then unwanted overtures of a personal relationship, that simply cannot be ignored. Brother Jay was warned by the Local Union's past and current principal officers, not once, but at least twice over the past two years, that any such interplay with Sister Marshall would cause grave consequences. The evidence also established that such conduct, perhaps in a subtler form, continued into January of this year but was no less serious than his prior course of conduct. This was in violation of

the Local 20 sexual harassment policy, the IBT Constitution and Local 20's Bylaws, for which Brother Jay is accountable. That Brother Jay is an Officer of Local 20, is the Assistant to the President and was this year named Office Manager, as well as attended sexual harassment seminars held by the Local Union and has regularly participated in grievance hearings for Teamsters members on similar issues, only heightens his responsibility to abide by the policies of the Local Union and to act accordingly; Sister Marshall was (or is) his subordinate, and as her supervisor with the authority (at least partially) to determine the continuation and progress of his subordinate's career, he neglected his responsibilities as a supervisor and what would be expected of a Teamsters Officer. Brother Jay should have known better, and frankly, was in the best position to know better. As stated above, Officers, managers, supervisors, in our great Union are held to a higher standard of conduct when it comes to interactions with subordinate employees. Brother Jay's conduct was unbecoming of an Officer of the Union, in violation of his oath of office, and in violation of the Local Union's sexual harassment policy. In this regard, Sister Marshall's charges against Brother Jay have been proven and are, hereby, **SUSTAINED**.

As described above, two charges were filed against Brother Collinson, the first of which alleges that he ignored Sister Marshall's protestations of Brother Jay's conduct, and fostered the hostile work environment created by him. In contrast to the above, on the first charge there is insufficient evidence to prove that Brother Collinson 'turned a blind eye' to her complaints in January and February of this year, as the testimony established that when confronted by Sister Marshall, Brother Collinson proactively warned Brother Jay to cease such conduct immediately, and mandated that all future

contacts with this employee by Brother Jay also have Sister Hymore involved. It is also noteworthy that Brother Collinson discussed these remedial elements with Sister Marshall directly, and she agreed to them. It appears, however, that the 'trigger' for the first set of charges against Brother Collinson on February 23, 2017, was the announcement that Sister Marshall was expected to report jointly to three persons: Brother Collinson, Sister Hymore, and Brother Jay, the latter the object of her complaints which by that time were well known by Brother Collinson. We presume that Brother Collinson's prior order that all contacts by Brother Jay to Sister Marshall also include Sister Hymore, the Local Union's former office manager, was still in effect. On that basis, we find that Brother Collinson did not disregard her complaints or allowed behavior unbecoming of a Union Officer. Therefore, Sister Marshall's first charge against Brother Collinson shall be and hereby is, **DISMISSED**.

The second charge filed against Brother Collinson, dated April 17, 2017, alleges that he: (i) violated procedures for processing Article XIX charges, (ii) conspired to retaliate against her, and retaliated against her, (iii) harassed and intimidated her, and (iv) unjustly terminated her employment with Local 20. Obviously, these charges are much more compelling if proven by a preponderance of reliable evidence. First, there was insufficient evidence presented to prove that Brother Collinson knowingly violated any procedures on the processing of internal union charges. It was not improper for Brother Collinson to commission an independent investigation of the sexual harassment complaints against Brother Jay, before notifying the Executive Board of their existence; that was the principal officer's prerogative and he was following sage legal advice, and in any event, the Local 20 Secretary-Treasurer (Sister Hymore) was fully aware of them

when they were filed on February 22nd. Further, the Executive Board members were made fully aware of the charges against Jay, and those filed against Brother Collinson the following day, at a special meeting held just three days later, on February 25, 2017. Thus, Sister Marshall's claim that Brother Collinson somehow "violated a procedure" regarding the processing of Jay's charges, is, in a word, a 'stretch.' And, when the first charges were filed against Brother Collinson on February 23, 2017, he then recused himself from any further processing of them, or any other charges filed, from that point on. Those functions were properly assumed by the Local Union's Secretary-Treasurer. In sum, Sister Marshall's allegations of a violation of procedure by Brother Collinson has not been proven by a preponderance of reliable evidence and, is hereby, **DISMISSED**.

Further, we make no finding whether Sister Marshall was unjustly terminated from her employment, as she alleges. The IBT Constitution gives trial bodies wide discretion to render decisions, and in the appropriate case, impose penalties or other remedial measures on members and local unions alike. In this case, however, we decline to hold that, as Sister Marshall nonetheless urges, she was terminated for retaliatory reasons, or that the reasons stated by Brother Collinson were insufficient. This Executive Board does not sit as an arbitration panel, mediator, or arbiter of employment disputes. It is empaneled only to hear and decide alleged violations of the IBT Constitution and subordinate body bylaws. Whatever broad authority is conferred under our governing documents, the Joint Council, at least in this case, refrains from making any determinations with respect to Sister Marshall's claim of unjust termination. Therefore, her particular charge in that context is **DISMISSED**.

So too will the charges against Brother Collinson that he 'harassed' and

'intimidated' Sister Marshall in violation of our Constitution and the Local Union's Bylaws, be dismissed. There is no evidence that Brother Collinson purposely harassed or intimidated her, and the most that can be said is that this principal officer changed her duties, which he had every right to do so, and the discussions of which predated any of the charges filed and was a matter that the Executive Board was in full agreement with. That Sister Marshall may have, herself, considered the assignment of new duties and movement of her office location as 'harassment' or 'intimidation', does not make it so, and the evidence establishes that the principal officer had good reasons, to order such changes. Therefore, the Charging Party has not proven any element of 'harassment' or 'intimidation' on the part of Brother Collinson, and, therefore, this part of the charges against him is **DISMISSED**.

Based on the evidence presented, however, is difficult to dismiss the allegation that Brother Collinson did not retaliate against Sister Marshall for filing the two charges against Brother Jay and him. In our view, when the first charge was filed against him on February 23, 2017, Brother Collinson thereafter should have recused himself from any and ALL employment matters relating to Sister Marshall; he should have referred all such matters to the Secretary-Treasurer for handling, and for final determination by the Executive Board. Instead, he 'took charge' of the information supplied by Sister Christen in late March and early April concerning secretive the video tape, first suspending Sister Marshall and then, against the recommendation of a majority of the Executive Board, terminating her employment on April 14, 2017. This all occurred during the pendency of the charges filed against him. Although Brother Collinson stated at hearing that the existence of the charges played no part whatsoever in his decisions to suspend and

then to terminate her, against the Executive Board's stated wishes coupled with the fact that all he knew was that Sister Marshall had taken one or two photos of the Local Union's bylaws file containing a copy of her charges against Brother Jay, we have concluded that Brother Collinson acted improperly in those sanctions which had a retaliatory purpose and/or effect on this member. In view of the foregoing, we find that Brother Collinson violated Article XIX, Section 7(b)(8) of the IBT Constitution, and in so doing, also violated Article XIX, Section 7(b)(1). This part of Sister Marshall's charges is hereby **SUSTAINED**. We note, again, that although the Executive Board has found this charge, at the same time there is some mitigation by the fact that Sister Marshall was later reinstated to her former position, and made whole, which could only come about by the consent of Brother Collinson, the principal officer. See **Panel Exhibit 9**.

Finally, Sister Christen is charged with conspiracy to retaliate and entrapment. She suspected that Sister Marshall tampered with her files, and perhaps took the charges against Jay that Marshall herself had filed, and for that reason she installed a hidden camera in her office on March 29th. On that same day, while she was out of town, Sister Christen conveniently called Sister Marshall and directed her to search for one or more files in the office. That required a search of Sister Christen's desk as well. Sister Marshall did so and discovered the Local Union Bylaws file, that Sister Christen recently questioned Sister Marshall on, when it was allegedly missing. Then Sister Marshall removed the file from the desk, took photos of the Jay charges that were inside, and returned the file to Sister Marshall's desk; and, as the video showed, Sister Marshall also scanned the office for hidden devices. All this was disclosed on the video, which was turned over to Brother Collinson. Within days thereafter, Sister Christen

removed the cameras, because, in her own words, Sister Marshall was “no longer there.” Tr. 412. The evidence is circumstantial, obviously, but, the demeanor of the witnesses and other evidence leads us to conclude that the installation of video surveillance was pre-planned by Sister Christen (at least), in an attempt to provide evidence that her suspect, Sister Marshall, a person she purportedly did not trust, was guilty of some wrongdoing in the office. Thus, Sister Christen set in motion a mechanism leading to that result, and for that digression Sister Christen has violated the oath of membership never “to knowingly harm a fellow member”. Article II, Section 2(a). In view of these facts, a preponderance of reliable evidence has been presented proving that Sister Christen has violated Article II, Section 2(a), and thereby also, Article XIX, Section 7(a). In sum, this part, and this part only, of the charges filed against Sister Christen, is hereby **SUSTAINED**; all other portions of the charges filed against this member are **DISMISSED**.

V. CONCLUSION & REMEDIES

In summary, after due consideration of the foregoing evidence and for the reasons set forth above, the Executive Board has ruled the following:

- (A) Local 20 Trustee and Business Representative **MARTIN JAY** shall stand suspended from his elective office, employment (without pay), and duties with the Local Union for a period of **NINETY (90) CALENDAR DAYS**, to commence within five (5) calendar days of receipt of this decision; and
- (B) Local 20 President and Business Representative **RICHARD ‘CHUCK’ COLLINSON**, upon further consideration of the acts of mitigation shown

by him in this case, shall stand suspended from his elective office, employment (without pay), and duties with the Local Union for a period of **THIRTY (30) CALENDAR DAYS**, to commence within five (5) calendar days of the completion of Brother Jay's suspension in (A) above; and

- (C) Local 20 Staff Attorney **DAWN T. CHRISTEN**, shall stand suspended from her employment (without pay) and duties with the Local Union for a period of **NINETY (90) CALENDAR DAYS**, to commence within five (5) calendar days of receipt of this decision.

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President

David D. Dudas
Vice-President

Travis W. Bornstein
Secretary-Treasurer

Nick 'Sonny' Nardi
Recording Secretary

Doyle Baird
Trustee

Carl Pecoraro
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Mary Zart
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