

**REPORT AND RECOMMENDATIONS OF HEARING PANEL  
APPOINTED TO HEAR CHARGES AGAINST LOCAL 82 OFFICERS  
PATRICK GEARY, LEIF THORNTON, CHERYL MILISI,  
FRANCIS DIZOGLIO AND NICHOLAS MURPHY  
AND AGAINST LOCAL 82 MEMBERS  
JOSEPH BURHOE, JAMES DEAMICIS, THOMAS FLAHERTY,  
JAMES YOUNG, ROBERT PERRY, AND LAWRENCE MAGUIRE**

**Introduction**

On September 29, 2010, October 13, 2010, October 14, 2010, and November 10, 2010, the Independent Review Board ("IRB") issued five separate reports to International Brotherhood of Teamsters ("IBT") General President James P. Hoffa. The reports recommended the following charges against the following officers and members of Local 82:

**John Perry, Secretary Treasurer**

- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1), (2) and (5) of the IBT Constitution by engaging in a scheme to injure members through selectively enforcing contact provisions and abandoning Local 82's contractual obligation to refer workers through a lawful referral system in order to steer trade show work to family, friends and political allies;
- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (5) of the IBT Constitution by knowingly assisting member Joseph Burhoe in violating 29 USC Sec. 504 by permitting Burhoe to act as a representative of Local 82 when Burhoe was banned from serving in that capacity due to his previous conviction of and incarceration for armed bank robbery;
- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution and Local 82's Bylaws by creating and arbitrarily enforcing unauthorized rules concerning members' voting on proposed contracts in 2009;
- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution by engaging in a scheme to collude

with a non-union employer to provide him with workers that were paid less than they would have been paid under Local 82 contracts;

- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution and Local 82's Bylaws by allowing James Deamicis, who was not a member in good standing because he was under continuing suspension from membership, to exercise all rights of membership, including attendance at Local 82 membership meetings, Executive Board meetings and contract ratification votes, as well as assigning him to sit on a disciplinary panel, to participate on a negotiating committee and to serve as Chief Steward and as leader of Local 82's "strike unit";
- violating Article XIX, Section 7 (b) (1) and Section 14 (i) of the IBT Constitution by obstructing, interfering and unreasonably failing to cooperate with IRB by making misleading statements in his sworn examination on June 12, 2010, including testifying that he instructed two or three members in 2009 that they could not vote in a contract ratification when he prevented at least fifteen members from voting; and
- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution and Local 82's Bylaws by causing or allowing the Local Union to make substantial non-routine expenditures without obtaining membership approval.

Patrick Geary, President

- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution by creating and arbitrarily enforcing unauthorized rules concerning members' voting on proposed contracts in 2009;
- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution and Local 82's Bylaws by causing or allowing the Local Union to make substantial non-routine expenditures without obtaining membership approval.

Leif Thornton, Vice President, and Cheryl Milisi, Recording Secretary

- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution and Local 82's Bylaws by causing or allowing the Local Union to make substantial non-routine expenditures without obtaining membership approval.

Francis Dizoglio, Nicholas Murphy and John Logan, Trustees

- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution and Local 82's Bylaws by causing or allowing the Local Union to make substantial non-routine expenditures without obtaining membership approval; and
- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution by failing to perform the duties as a Trustee under Article X, Section 8 (a) and (b) of the IBT Constitution which included, among other things, verifying Local 82's bank balances.

Robert Perry, Speculating Steward

- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1), (2) and (3) of the IBT Constitution and Local 82's bylaws by embezzling \$2,485.00 from the Local Union.

Joseph Burhoe, Member

- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1), (2) and (5) of the IBT Constitution by engaging in a scheme to injure members through selectively enforcing contract provisions and abandoning Local 82's contractual obligation to refer workers through a lawful referral system in order to steer trade show work to family, friends and political allies;
- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (5) of the IBT Constitution by violating 29 USC Sec. 504 by acting as a representative of Local 82 when he was banned from

serving in that capacity due to his previous conviction of and incarceration for armed bank robbery; and

- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) by engaging in a scheme to collude with a non-union employer to provide him with workers that were paid less than they would have been paid under Local 82 contracts.

Thomas Flaherty and James Young, Members

- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution by creating and arbitrarily enforcing unauthorized rules concerning members' voting on proposed contracts in 2009.

James Deamicis, Member

- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution by creating and arbitrarily enforcing unauthorized rules concerning members' voting on proposed contracts in 2009;
- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution by engaging in a scheme to collude with a non-union employer to provide him with workers that were paid less than they would have been paid under Local 82 contracts; and
- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution by, while not a member in good standing because he was under continuing suspension from membership, exercising all rights of membership, including attendance at Local 82 membership meetings, Executive Board meetings and contract ratification votes, as well as sitting on a disciplinary panel, participating on a negotiating committee and serving as Chief Steward and as a leader of Local 82 "strike unit."

Bernard Piscopo, Member

- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution by, while an IBT member, committing a homicide on June 17, 2007, for which he was convicted of voluntary manslaughter on October 13, 2009.

Lawrence Maguire, Member

- violating Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution by, while an IBT member, intimidating a witness and assaulting a police officer on or about December 11, 2007, offenses for which he was convicted on or about November 21, 2008.

General President Hoffa promptly filed the recommended charges, and appointed a Hearing Panel ("Panel") to hear them in accordance with Article XIX of the IBT Constitution. Subsequently, the charge against Piscopo was referred back to IRB, where it is currently pending, and the charges against John Perry were settled pursuant to an agreement that was approved by IRB on February 10, 2010 (which we understand has been submitted to Judge Preska for her review and approval).

The remaining charges (against Geary, Thornton, Milisi, Dizoglio, Murphy, Logan, Burhoe, Flaherty, Young, Deamicis, (Robert) Perry and Maguire) are before this Panel, which is comprised of Brothers Ronald B. Schwab, International Representative, L.D. Fletcher, President of Teamsters Local 509 and Marcus W. King, President of Teamsters Local 331. Brother Schwab was designated to serve as the Panel's chair. The Panel is charged with responsibility for hearing the evidence and making a full report to the General President.

By letter dated November 17, 2010, General President Hoffa notified each of the charged officers and members that a hearing on the charges was scheduled for December 14 and 15, 2010, at the offices of Teamsters Local 25, located at 544 Main Street, Boston, Massachusetts 02129, commencing at 9:00 a.m. The hearing was subsequently adjourned to January 13 and 14, 2011, and due to adverse weather conditions was adjourned a second time to February 15 and 16, 2011, at the same location and time.

The hearing commenced at approximately 9:10 A.M. on February 15, 2011, and was completed at approximately 6:15 P.M. on that same day. All parties who appeared at the hearing had the opportunity to be represented by counsel, to submit evidence and testimony, to cross examine witnesses and to present arguments in support of their positions. The charges were presented by Roland R. Acevedo, Esq.

The following findings and recommendations of the Panel are based on the entire record in this case, including exhibits and sworn testimony appended to IRB's report, the transcript of the Panel hearing, other documents entered into evidence, the witnesses' testimony and demeanor and the arguments of counsel.

### **Background**

Local 82 is located in Boston, Massachusetts. It had approximately 620 members in 2009 and has jurisdiction in the moving and trade shows industries in the Boston area. The Local is currently under Trusteeship, which was imposed by the IBT in September of 2010, following a recommendation from IRB earlier that month. At all times relevant to the charges, John Perry was the Local's Secretary Treasurer and principal officer. He was its only full time officer and business agent.

### **Evidence and Recommended Findings Concerning the Charges**

We begin our analysis of the charges in this matter with the elements of "just cause," a standard which is expressly embedded in the Consent Decree. Esteemed Arbitrator Carroll Daugherty, in Enterprise Wire Co., 46 LA 359, 363-65 (Daugherty, 1965), formulated these elements into seven "tests," which are routinely employed in resolving disputes over workplace discipline:

- Whether the employee was forewarned about the rules and the consequences of violating them;
- Whether the rules were reasonably related to business efficiency and performance that the employer could reasonably expect from its employees;
- Whether an effort was made prior to the imposition of discipline to ascertain whether the employee violated the rules;

- Whether an investigation of the matter was conducted fairly and objectively;
- Whether there is substantial evidence showing that the employee in fact violated the rules;
- Whether the rules were applied fairly and without discrimination; and
- Whether the disciplinary penalty imposed was reasonably related to the seriousness of the employee's offense and past disciplinary history.

These "tests," perhaps with some adjustments for the context of internal union discipline, are applicable to charges brought against union officials and members under the Consent Decree and Article XIX of the IBT Constitution. They have provided appropriate and helpful guidance to us here in evaluating the allegations in the charges and the evidence supporting them, as well as in formulating, to the extent we have determined that particular charges have merit, appropriate penalties.

**A. Charges related to financial transactions approved or allowed by former officers Patrick Geary, Leif Thornton, Cheryl Milisi, Francis Dizoglio, John Logan and Nicholas Murphy**

Each of these former officers of Local 82 is charged with having caused or allowed Local 82 to make substantial non-routine expenditures without membership approval as required by the Local's bylaws. The evidence summarized in the IRB's report recommending these charges reflects the following:

- That the Local's Bylaws provide that "[s]pecific authorization at a membership meeting shall be required for ... expenditures, except for routine expenditures not of a substantial nature."
- That the IBT's Local Union Financial and Administrative Policies and Procedures Manual provides that membership approval should be obtained for a Local's purchases of fixed assets "amounting to more than \$10,000."

#### 1935 Ford Truck

- That the Local purchased a 1933 Ford Truck for \$13,300 in 2008, a transaction that was initiated by former principal officer John Perry in connection with a 75th anniversary celebration.
- That the check for this purchase was signed by Perry and cosigned by the Local's President, Patrick Geary.
- That, although Perry informed the Local's Executive Board about the purchase, no formal approval for the purchase is reflected in the Local's Executive Board minutes in 2008.
- That, although the purchase of the truck was disclosed at a general membership meeting conducted subsequently, no officer of the Local sought, required or obtained membership approval, as required by the bylaws.

#### 75<sup>th</sup> Anniversary Celebration

- That in 2008, the Local conducted a 75<sup>th</sup> anniversary celebration for which it incurred expenses for catering, room rental and related expenses in excess of \$90,000.
- That, checks covering these expenses were similarly signed by Perry and cosigned by Geary.
- That, although Perry informed the Local's Executive Board about the celebration and related expenses, no formal approvals for the payments are reflected in the Executive Board minutes in 2008.
- That, although the celebration and related expenses was disclosed at membership meetings, no officer of the Local sought, required or obtained membership approval of the payments, as required by the Bylaws.

In addition to the foregoing, former Local Trustees Dizoglio, Logan and Murphy are charged with having failed to verify the Local's bank balances,



which they are required periodically to do under the IBT's Constitution. The evidence summarized in the IRB's report recommending the charges against them reflects the following:

- That Article X, Section 8 (b) of the IBT Constitution requires that a Local's Trustees "must sign the books of the Local Union if the Trustees have found them correct and the bank balances verified."
- That Dizoglio, Logan and Murphy generally admitted that they did not verify bank balances reflected on financial reports prepared by Perry against bank statements or other backup documentation.

At the hearing before this Panel, the foregoing evidence relating to significant, non-routine expenditures by the Local without membership approval was largely uncontroverted. Additional evidence was presented, indicating that the membership was generally informed about the anniversary celebration both before and after it occurred, and that the expenses related to the event and the purchase of the truck were not knowingly concealed. Nevertheless, it remains undisputed that the membership was not asked to approve and did not approve these expenditures, formally or otherwise, despite the clear requirements of the Local's bylaws.

Similarly, it was also undisputed that the Local's former Trustees, Dizoglio, Murphy, and Logan, did not examine bank records or otherwise actually verify bank balances on reports they signed, despite the specific requirements of the IBT Constitution and their oaths committing to uphold and follow them.

For their part, the former officers have admitted that they made "mistakes," that they were "negligent" and that they were "lax" in their responsibilities. Several complained, however, that despite having taken the standard oath of office they were not adequately trained and/or were not provided with copies of the IBT Constitution, the Local's bylaws or the Local Union Financial and Administrative Policies and Procedures Manual. Several of them asserted that they had not intentionally violated the Local's bylaws or sought to deceive the membership. Finally, several presented letters from members and other persons attesting to their reputations for honesty and integrity.

As indicated, the factual allegations pertaining to the charges against the former officers of Local 82 concerning two non-routine expenditures in 2008 and pertaining to the former Trustees verification of the Local's bank balances are largely uncontested. It is conceded that the Local purchased a truck and spent

funds to hold a 75<sup>th</sup> anniversary celebration without obtaining approval by the membership, as required by the bylaws. It is likewise conceded that the three former Trustees did not verify the Local's bank balances, again as is clearly required by the IBT Constitution. The elements of "just cause" with respect to these charged offenses are amply satisfied here.

The various defenses and explanations offered by or on behalf of the former officers, although perhaps relevant to the remedies we ultimately recommend, do not justify dismissal of the charges. Specifically, it is no defense that they relied on the direction and leadership provided by the Local's former principal officer, no defense that they failed to obtain training with respect to their duties and no defense that they did not obtain or were not given copies of the Constitution and bylaws they swore to honor and uphold. As officers of the Local, they took an oath to ensure that the Constitution and bylaws were enforced. It was their responsibility to see to it that this occurred. It is undisputed that they did not do so. Nor are we persuaded by the suggestion that the amount of the expenditures for the Local's 75<sup>th</sup> anniversary should be offset by funds raised through the sale of tickets to the festivities. In this latter regard, proceeds from the sale of tickets became an asset of Local 82, not an offset against the non-routine expenditures that were not properly approved in accordance with the Local's bylaws.

Accordingly, and while we take into consideration in formulating our recommended remedies the mitigating circumstances urged in this matter, we recommend that the charges against the Local's former officers, relating to their failures to perform their duties with respect to ensuring that two 2008 non-routine expenditures were approved by the membership and with respect to the failures by the three former Trustees to verify the Local's bank balances, be sustained.

**B. Charges against Former Local 82 President Patrick Geary and members Thomas Flaherty, James Young and James Deamicis relating to creation and enforcement of unauthorized rules concerning members' voting on contracts in 2009.**

These charges allege in substance that Brothers Geary, Flaherty, Young and Deamicis "creat[ed] and arbitrarily enforc[ed] unauthorized rules concerning members' voting on proposed contracts in 2009." The evidence generally, and relating specifically to each charged member with respect to these charges, is complex and, at times, conflicting.

The essential allegations appear to arise out of a 2006 change in the way in which trade show contracts were ratified in Local 82. In this regard, it is clear that there exists internal and ongoing controversy within the Local's membership over whether members should be allowed to vote on all or merely certain trade show contracts. This controversy has its roots in the fact that trade show work is sporadic and intermittent, with members often working for a number of different trade show contractors throughout each year. It appears that prior to 2006, the practice in the Local was that all members voted to ratify a single contract with Freeman Decorating, the largest trade show contractor working in Local 82's jurisdiction, which then set the pattern for the other contractors. In 2006, the practice was changed to a process of separate individual contract ratifications. This required the formulation of a policy to determine which members were eligible to vote on each contract.

According to Local 82's former principal officer John Perry, the new policy was for each contract to be voted on by members who either had seniority with that employer or, if they did not have seniority with this or any other employer, who worked the majority of their time with that employer. Under this policy, a member was eligible to vote on one, and only one, contract and was supposed to be turned away if he attempted to vote on another agreement.

A faction of members apparently continues to contend that all members are entitled to vote on all contracts and that they have the right to pick and choose which contracts they want to vote on. This controversy appears to have boiled over during 2009, with members seeking to exercise their interpretation of their voting rights by showing up and attempting to vote on certain agreements and the Local's former administration attempting to enforce the new policy restricting each member's right to vote on only one contract. On at least one occasion, in April of 2009, the Local hired an off duty police officer to keep order during a contract ratification conducted for GES, a large trade show contractor.

The Local's bylaws provide that the Executive Board has the authority to "[d]etermine the membership which shall vote on agreements ... and adopt rules and regulations concerning the conduct thereof not inconsistent with the International Constitution and these bylaws." It does not, however, appear that the Executive Board has ever formally adopted a policy concerning voting eligibility for trade show contracts. Enforcement of a voting policy which was not approved by the Executive Board was contrary to this bylaw provision.

In addition, in 2009, it appears there was much controversy among the membership over a change to contract language that had previously given employment preference to members with trade show experience dating back prior to 2003, which was eliminated in the 2009 contracts. IRB's report asserts that enforcement of the policy regarding who could vote on each contract was manipulated in a manner calculated to ensure that the controversial contract change would be ratified. In this regard, the report breaks down instances in which members appear to have voted on more than one trade show contract in 2009, and other instances in which the policy as articulated by Perry appeared not to have been followed, and still others where it was apparently enforced in a haphazard or inconsistent manner.

Although a policy which limits voting on trade show contracts to those members who have seniority with a particular contractor and those who work predominantly for that contractor seems objectively reasonable on its face, it is clear from the record that enforcement of such a policy with many members working for multiple contractors throughout the year was problematic. Whether or not there was an intent or "scheme" to manipulate the successful ratification of contract changes in 2009, which is by no means clear to us, efforts to enforce the policy clearly resulted in inconsistencies, leading to understandable suspicions. Clarifying and implementing appropriate contract ratification procedures is presumably now one of the responsibilities of the Trustee.

All of this said, in the context of the disciplinary charges that are before us, we are required carefully to examine the evidence compiled by IRB, as well as the testimony at the hearing we conducted, to determine whether "just cause" exists to discipline each of the individual charged parties for "creating and arbitrarily enforcing unauthorized rules concerning members' voting on proposed contracts in 2009." As set forth below, the record evidence in significant respects falls far short of supporting the charges against three out of four members charged with this offense.

In addition, we are troubled by several unusual practices that appear to have been followed during IRB's investigation of these charges, specifically (1) sworn examinations of several witnesses (John Scaduto, Paul Shoulla and William Benner) in which other witnesses (Joe Previti and Kevin Barry) were allowed to attend and appear to have actively participated in providing responses and (2) reliance on hand written responses provided on mailed questionnaires (E.g., James McNiff, Joseph Previti, David Corbitt, William Macdonald, Jr., Dana Ramos, John Scaduto, Robert Wellman, William Benner, Darren Durfee, John Finn, Steve

O'Shea, Joseph Bowman, Kevin Barry, Paul Shoulla, Kevin McDonnell, Edward O'Connor, Greg Mulvey, Peter Metcalf, Michael Coakley, Kevin McDonough, John Flaherty and Michael Durfee) which, given the unfortunate instances of what could be characterized as witness coaching during the sworn examinations, we consider to have suspect reliability. See, e.g., United States v. Ebens, 800 F.2d 1422 (6<sup>th</sup> Cir. 1986) (raising significant concerns about witness coaching by advocates against a criminal defendant). Furthermore, in at least one instance, described below, a witness' handwritten response to a questionnaire directly contradicted sworn testimony relating to a material allegation against one of the charged parties. In considering the evidence cited by IRB in support of the charges, we have tended to discredit testimony in which other witnesses appear to have attempted to influence the deponent's responses as well as evidence consisting solely of written responses to questionnaires.

### James Young

Brother Young vehemently protested at the hearing that there was no evidence that he created or enforced, arbitrarily or otherwise, unauthorized rules concerning members' voting on proposed contracts. He appears to be right. Neither IRB's report nor our independent review of the record discloses any evidence that Young created the policy that was used in 2009 or that he enforced it by preventing anyone from voting during contract ratifications. Nor is there any evidence that he participated in a "scheme" to manipulate voting eligibility in 2009.

True enough, Young testified he was appointed to serve as a Sergeant at Arms during several contract ratification votes during this time frame. But he explained what he did as "pretty much make sure people stand in line and put the ballot box, watch it, make sure people don't vote twice." IRB's assertion that Young "decided who was eligible to vote on each contract" is not supported by the testimony. Nor does the evidence show that he "allowed several members to vote on multiple contracts." Although it seems clear that several members did vote on multiple contracts during 2009, the record evidence is silent on Young's specific culpability for this. Similarly, while IRB alleges that during the GES ratification vote in April of 2009 "Young, along with Robert Perry, patrolled inside the Local," the evidence cited for this allegation does not say or show this at all. Rather, the evidence is only that he was inside the Union hall on that occasion "at my desk." Ultimately, not one single witness appears to have accused Young of having prevented anyone from voting.

In these circumstances, the charge that Young created and arbitrarily enforced an unauthorized rule regarding voting on contracts has not been proven, and we recommend that it be dismissed.

Thomas Flaherty

Brother Flaherty, like Brother Young, served as a Sergeant at Arms at several contract ratification votes in 2009. There is, however, no evidence that he created the unauthorized policy regarding who could vote on trade show contracts. There is also no evidence that he participated in a "scheme" to manipulate voting eligibility.

He did testify that he understood that he was responsible for ensuring that members voted on only one contract. In other words, if a member voted on the Freeman contract, he could not vote on the GES or Champion contracts. He denied preventing any member from voting on any particular contract.

The evidence relied upon in IRB's report that he prevented members from voting appears to consist of the testimony of John Scaduto, one of the witnesses who appears to have been influenced by another witness (Joe Previti) who was present during his sworn examination, and several witnesses who claimed that Flaherty was standing proximate to John Perry or a police officer when Perry or the police officer prevented members from voting. Scaduto initially said that Flaherty prevented him from voting on the GES contract. Scaduto later contradicted himself with respect to Flaherty's role during his sworn examination and in his handwritten response to a questionnaire mailed to him by IRB, identifying Perry, not Flaherty, as the person who prevented him from voting. We do not credit Scaduto's initial claim that Flaherty enforced the policy and we likewise do not conclude that Flaherty is guilty of enforcing an unauthorized rule when he was simply standing next to Perry or a police officer while one of them was apparently enforcing the rule. Nor can we find evidence that Flaherty specifically "allowed" anyone to vote on more than one contract.

The charge that Flaherty created and arbitrarily enforced an unauthorized rule regarding voting on contracts has not been proven, and we recommend that it be dismissed.

### James Deamicis

Our evaluation of the charge against James Deamicis is complicated by IRB's position that Deamicis' Union membership was suspended from and after approximately May of 2005, when internal disciplinary charges against him were sustained by Local 82's Executive Board. Although the Executive Board suspended Deamicis' membership for a period of one year, it also fined him \$3,000. Deamicis apparently did not pay the fine in full and, according to IRB, his membership remained automatically suspended because of Article XIX, Section 10 (d) of the IBT Constitution, which states that when a disciplinary penalty has not been complied with the disciplined member shall "stand suspended from all rights and privileges under this Constitution." As late as August 6, 2010, Deamicis had still not paid the fine in full and, under this logic, his membership remained suspended.

The problem for us is that according to IRB's report Deamicis' membership remained suspended throughout 2009, the period he is accused of having created and arbitrarily enforced unauthorized voting rules. As a matter of settled labor law, a union may not lawfully pursue internal disciplinary charges against persons for conduct occurring when they were not union members. E.g., NLRB v. Granite State Joint Board, 409 U.S. 213, 216-16 (1972) ("where there is a lawful dissolution of a union-member relation, the union has no more control over the former member than it has over the man in the street"); see also Pattern Makers League v. NLRB, 473 U.S. 95 (1985). We are mindful that former members may arguably be disciplined for conduct occurring before their membership ended. But, we are aware of no authority allowing a Union tribunal to charge a non-member for conduct occurring when he was not a Union member. Here, if Deamicis's Union membership was suspended throughout 2009, we respectfully do not believe the Union can lawfully discipline him for conduct occurring while his membership was suspended. For this reason alone, we are arguably required by law to recommend dismissal of these charges against him.

It nonetheless appears that Local 82's principal officer essentially treated Deamicis as a Union member from and after 2007 despite the nonpayment of his 2005 fine. He attended Union meetings, served as an appointed member of a Local Union disciplinary panel, served as part of a negotiating committee and as a steward.

In 2009, Deamicis, although not an appointed Sergeant at Arms, attended several contract ratification votes because, he said, he had served as a Union

steward at the companies. There is no evidence that he created the policy regarding who could vote on contracts and there is likewise no evidence that he participated in a "scheme" to manipulate voting eligibility.

It appears that Deamicis was present at the contract ratification vote for GES in April of 2009, although he says he had no official role on behalf of the Local Union. He admits that he was standing proximate to principal officer Perry when a member asked why he could not come into the Union hall to vote and that he stated "because John Perry said you couldn't, can't come in."

IRB's assertion that Deamicis "arbitrarily determined which members were eligible to vote on the collective bargaining agreements," however, is not supported by the testimony cited in its report as support for this allegation (John Perry and Patrick Geary), which does not even mention Deamicis. Nor does the cited evidence support IRB's assertion that Deamicis "decided who could vote." Nor can we find any evidence in the record suggesting that Deamicis "allowed" certain members to vote on more than one contract or "permitted" members to vote on the GES contract when they were not "eligible" under the unapproved policy. As indicated, we generally tend to discredit the handwritten responses to IRB's questionnaires, particularly when they lack specifics or are not corroborated in sworn testimony. And, so far as we can determine, there is no sworn testimony that supports IRB's assertion that Deamicis "assisted Perry in preventing members from entering the [union] hall to vote," certainly not the testimony cited for this conclusion in IRB's report (Joseph Burhoe, Thomas Flaherty and David Corbitt). In this latter regard, witnesses Joseph Burhoe and Thomas Flaherty, whose testimony is cited in support of this allegation, did not mention Deamicis. Corbitt did not testify that he saw Deamicis prevent anyone from entering the hall to vote either. And Paul Shoulla, whose handwritten response on IRB's questionnaire is cited in support of IRB's assertions against Deamicis, likewise did not identify Deamicis as being involved.

For his part, Deamicis credibly denied during the hearing before the Panel that he prevented anyone from entering the hall to vote.

The charge that Deamicis created and arbitrarily enforced an unauthorized rule regarding voting has not been proven. Moreover, since his membership was suspended at the time of his alleged conduct, he arguably may not be lawfully the subject of internal disciplinary charges. We recommend that this charge be dismissed.



Patrick Geary

Brother Geary, formerly the President of Local 82, testified that he believed the Local's bylaws provided that members could vote on a contract if they were seniority employees with the company or were "spares" who worked the majority of their time with that company. Obviously, the bylaws state only that the Executive Board may determine how members vote on contracts. We nonetheless reject the suggestion in IRB's report that Geary testified dishonestly or falsely concerning his beliefs in this regard, given that the actual language of the bylaws was easily verifiable. He also admitted, candidly, that he attempted to enforce his understanding of the voting policy, citing one instance in which he prevented a member (the transcript shows him identified as "P.J. Schuler") from voting on one contract because he was on a seniority list at another company, and other situations in which he believed the members were ineligible because they worked a majority of their hours for another contractor. Significantly, it appears from the record that "P.J. Schuler" is actually Paul J. Shoulla, who provided a sworn examination in which he identified John Perry, not Geary, as the person who prevented him from voting.

We find no evidence in the record that Geary "created" or participated in formulating the voting policy, although as an officer of the Local he clearly was responsible for ensuring that the bylaw provision requiring Executive Board approval was followed. Likewise, we can find no evidence that Geary knowingly participated in a "scheme" to enforce the policy selectively, that he knowingly manipulated eligibility during contract ratifications in 2009 or that he knowingly allowed members to vote on contracts when they were not eligible to vote on them under the unapproved policy. Significantly, there is scant evidence in the record compiled by IRB, of members identifying Brother Geary as responsible for preventing them or others from voting. Ultimately, we credit his contention before us that discrepancies in enforcement of the voting policy were not intended.

That said, Brother Geary, as an elected officer of the Local, had a sworn duty to ensure that the bylaws were followed. He has admitted that he undertook to enforce a voting policy that had not been approved by the Executive Board, as was clearly required in the bylaws. As indicated, we find no evidence that Geary created this policy. But, in either case, we believe the charge that Brother Geary enforced an unauthorized rule regarding voting on contracts is supported by the evidence, and we recommend that it be sustained.

C. **Charges against Joseph Burhoe relating to work referrals.**

The two charges against Brother Burhoe concerning his involvement in work referrals are related to each other. The first alleges that Burhoe engaged in a scheme to injure members by selectively enforcing trade show contract provisions requiring that Local 82 refer workers from a lawful work referral system which, in turn, resulted in the diversion of work opportunities to family, friends and political allies of Burhoe and/or John Perry. The second alleges that Burhoe violated 29 USC Sec. 504 by acting as a Union representative for Local 82 when he made work referrals to trade show employers, a role he was barred from filling due to his recent conviction and incarceration for armed bank robbery.

It is undisputed that Burhoe pled guilty to armed bank robbery in 2003, that he was incarcerated in a federal prison for this offense and that he was not released from prison until November of 2006. It is also undisputed that by law he is, and was, precluded from serving "as a representative in any capacity" for any labor organization for not less than a period of thirteen years from the end of his incarceration for this offense (i.e., until no earlier than November 2019), unless otherwise permitted to serve as a union representative by a federal court order. 29 USC Sec. 504 (a). A willful violation of this ban is itself a crime, punishable by a substantial fine and imprisonment.

Local 82's trade show contracts require each contractor to maintain a seniority list. To the extent a contractor is unable to fulfill its labor needs using employees on its seniority list it is required to consider employees referred by the Local through a lawful referral system. Unfortunately, Local 82 had no written referral rules and no lawful referral system during the relevant time frame.

According to IRB's report, only nine out of twenty five trade show contractors have seniority lists, as required by the contracts. Burhoe, with knowledge and consent of Local 82's former principal officer John Perry, undertook to refer workers to trade show employers, especially those which did not have seniority lists. Burhoe, in turn, preferred himself and his friends and relatives for these work opportunities, leading to patterns of apparent nepotism and favoritism in the Local.

Burhoe admits to having filled labor calls for employers under contract with Local 82, in particular for a company called "Union Payroll." IRB's report cites evidence that an employer representative from Union Payroll sometimes called or e-mailed Burhoe at the Local in connection with work calls, and that the Local

forwarded these communications to Burhoe. It also cites evidence that Burhoe used the Local's fax machine to send a communication to an employer regarding job referrals. It also cites evidence regarding approximately five other trade show contractors to which Burhoe undertook to refer workers and, in doing so, generally favored his friends, relatives and allies or those of John Perry.

For his part, Burhoe admitted during the hearing before the Panel that he participated in referring workers to employers, that he occasionally communicated with employers through the Local and that he generally preferred friends, family and allies when making referrals. For example, he testified as follows:

"That's why I think its so important when it comes to show work to their friends, family and political allies comes in, all right? The work, I was helping guys get work. I've never denied that. I've done it for years when we were younger. That's how everybody does it around here. Now he's saying that I'm wrong. Now you're saying I'm wrong. Well, you should have said I'm wrong and then said don't do it again. I mean, something that's been going on forever in this Local, everybody does it. Everybody has family members in this Local."

When he was asked about how he went about referring workers to trade show contractors he offered the following:

"What happens is usually Union Payroll, Mike Cesari calls me and says we need 30 guys, they want your best 30 guys, can you get me 30 guys. So I would find out what it involves, what we need done for the show and you get the best guys you can get.... So I refer the certain people who you know can do it. I say Mike, this guy can do that, but once they really know, they always say I want the same guys."

He claimed that when he referred workers he was acting on behalf of the employers. There is no evidence supporting this claim, and in particular no evidence that Burhoe was ever hired as a manager or supervisor by any of the trade show contractors. Moreover, there is evidence that Burhoe maintained extensive and regular telephone contact with Local 82's principal officer during the relevant time frame, from which it can be easily inferred that he was generally acting on behalf of the Local and not on behalf of employers.

We conclude, based on the foregoing evidence, that Burhoe in fact performed Union responsibilities associated with referring workers to trade show

contractors, that in doing so he participated in a scheme which undermined the requirement in Local 82's contracts that there be a lawful work referral system, that he did this with the approval and consent of the Local's principal officer, John Perry, and that in doing so he performed a Union representational function contrary to the statute barring him from such activity due to his recent criminal conviction. His claim that "everyone does it" misses the point, which is that not every member of Local 82 has a disqualifying criminal conviction barring them from serving as Union representatives. We further find that Burhoe has made it clear that he fully understands, and understood, the prohibitions of the statute and the consequences of his actions. We also conclude that in referring workers without reference to any objective criteria he preferred friends, relatives and allies, and that this contributed to a pattern of favoritism and nepotism which violated the requirements of the trade show labor agreements negotiated by the Local. The "just cause" elements are satisfied with respect to the charges against him.

We recommend that the charges against Joseph Burhoe for his actions relating to work referrals be sustained.

**D. Charges against Joseph Burhoe and James Deamicis relating to referring workers to Atlantic Liquidators in 2009.**

Burhoe and Deamicis are charged with "engaging in a scheme with a non-union employer to provide workers who were paid less than they would have been under Local 82 contracts."

In the fall of 2009, a nonunion employer called Atlantic Liquidators approached Local 82 concerning a project involving the removal of used furniture and partitions from the Prudential Center, an office building located in downtown Boston. Two tenants in the Prudential Center were moving to other quarters, and apparently sold some of their furniture and partitions to Atlantic Liquidators which, in turn, was seeking to remove these items from the building. The work included dismantling the partitions and moving them, along with the purchased furniture, to an area where they could be loaded onto trucks and carted away. According to the testimony of the company's owner before the Panel, using union labor at the Prudential Center was "suggested." To "keep peace in the family," the company decided to contact Local 82 to obtain workers for this project.

Local 82 members were called to work on this project by Burhoe. Burhoe called his friends and relatives for this project. They were paid approximately \$25

per hour by check, without benefit contributions and without local, state or federal withholdings being taken.

Atlantic Liquidators is owned by Alan Ginesky. His company buys, refinishes and resells used office furniture and related equipment. In the past, it has contracted with companies under contract with Local 82 and/or a local Carpenters' affiliate to tear down and move these items in Boston.

According to Ginesky, he attempted to contract with a Local 82 contractor to perform the work with respect to the removal of items purchased from two Prudential Center tenants in the fall of 2009, but was unable to come to terms. He says he then contacted Local 82's principal officer, John Perry, who assured him that the Local could provide qualified members to do the work. At the same time, according to Ginesky, the Carpenters Union had been also demanding the opportunity to supply workers to perform the same work. According to Deamicis' understanding, an agreement was signed with Local 82 to "satisfy the building that he did have a union entity bring that stuff out the door."

It is undisputed that Burhoe undertook to call workers for this project. Ginesky regarded these workers as "from the hall." Ginesky testified at the hearing before the Panel that he dealt with "two or three guys ... who showed a little more powerful personality." Burhoe, with knowledge and consent of John Perry, called the workers for this project. He did not use a referral list. It was "just word of mouth."

Deamicis worked on the project for one day, for which he received \$500, which was at a higher rate than the rate paid to other workers on the project. He testified that he negotiated his terms personally with Ginesky. He did not testify that he received a higher rate because "I am worth that much," as IRB's report asserts. Rather, he testified he asked Ginesky to pay him \$75 per hour, "[b]ecause I am worth that much," a figure Ginesky refused to pay. There is no evidence that Deamicis participated in negotiating with Ginesky on behalf of the other workers, in supplying workers for the project or in establishing the compensation paid to anyone other than himself.

The Panel recommends that the charge that Deamicis "engaged in a scheme with a non-union employer to provide workers who were paid less than they would have been under Local 82 contracts" be dismissed. As indicated above, Deamicis's membership was suspended at the time when this conduct allegedly occurred, rendering an effort to impose internal Union discipline against him for

this conduct problematic from a legal perspective. Moreover, the evidence does not demonstrate that Deamicis participated in supplying workers or in negotiating the terms of their compensation in connection with the Atlantic Liquidators project.

Burhoe is another matter. He admits to having supplied workers for the project with the full knowledge and consent of the Local's principal officer. These actions constituted yet another instance in which he served as a Union representative despite the statutory bar related to his recent criminal conviction. Moreover, it is clear to us that he well understood that workers referred for this project did not receive the compensation package that is commonly provided under a Local 82 contract. We recommend that the charge that Burhoe "engaged in a scheme with a nonunion employer to provide workers who were paid less than they would have been under Local 82 contracts" be sustained.

**E. Charge against James Deamicis for exercising rights of membership while his membership was suspended.**

The facts regarding this charge are largely undisputed. Deamicis was fined \$3,000 and suspended from membership for one year in 2005. He failed to pay the fine in full, and as a result his membership has remained suspended until the fine is paid under Article XIX, Section 10 (d) of the IBT Constitution. He is charged with having exercised rights as a member while the fine remained unpaid. This included serving as a steward, sitting on a Local disciplinary panel, attending Executive Board and membership meetings and representing the Local on its "Strike Unit." Deamicis counters that he did these things with the full knowledge and consent, and often at the direction, of the Local's principal officer, John Perry. Perry was charged for his involvement in this and these charges have, of course, been settled.

The Panel recommends that this charge against Deamicis be dismissed. In this regard, to the extent Deamicis' membership remained suspended due to his failure to pay the 2005 fine, the Union arguably could not lawfully discipline him for conduct engaged in during that time frame in light of Granite State Joint Board, Pattern Makers League, and cases applying the principles established by the Supreme Court in these cases. In addition, it appears that traditional "just cause" principles would not be met in imposing discipline against him for conduct engaged in with the knowledge, consent and at the direction of the Local's principal officer. In this regard, we do not believe that he would have or could

have understood that he was subject to internal Union discipline for acting in accordance with instructions from John Perry.

True enough, Union members have been disciplined for allowing a suspended officer to violate the terms of his suspension. Indeed, a suspended officer in a case cited in IRB's report was also disciplined for violating the terms of his suspension -- from office. United States v. Teamsters (Yontek), 838 F. Supp 800 (S.D.N.Y. 1993). But, disciplining a member for failing to honor the terms of his disciplinary suspension from office is a far cry from ignoring the teachings of Granite State Joint Board, Pattern Makers League, related labor law precedents, which hold that a Union tribunal may not lawfully discipline a non-member for conduct occurring while he was not a member of the Union.

We accordingly recommend that the charge against Deamicis for exercising membership rights while his membership was suspended be dismissed.

**F. Charge against Robert Perry for allegedly embezzling \$2,485 in excess dues reimbursements.**

Robert Perry is the brother of John Perry. He is almost 70 years old and his demeanor could be best described as frail. He is charged with embezzling a total of \$2,485 from Local 82 by accepting dues reimbursement checks that exceeded the amounts of dues he paid the Local in calendar years 2005, 2006, 2007 and 2008.

A member of Local 82 since at least 1990, Perry has worked in the trade show industry. In addition to working directly in the craft, he was appointed by John Perry to serve as "speculating steward," "chief steward" and "warden."

As "speculating steward," Perry was responsible for running the "spec" program at the Local, for which he was paid by the Local. His duties included opening the Union hall, ensuring that it was properly cleaned and that snow was cleared around the building when needed, and coordinating the process by which out of work members reported to the hall each day in order to have their names included on lists that were provided to trade show contractors needing workers. He was paid at the rate of \$25 per hour, and from 2005 to 2009 received the following payments from the Local covering this work:

2005 \$3,859.22  
2006 \$6,200.00

2007 \$21,526.00  
2008 \$22,050.00  
2009 \$11,300.00

It appears, from records compiled by IRB, that the Local treated him as an employee for this work, making FICA contributions and taking local, state and federal tax withholdings from his checks.

Perry also served as a "chief steward" during this time frame, for which he was compensated by trade show employers.

Finally, Perry served as a "warden," a position to which members are appointed to assist the Local Union officers during membership meetings by performing largely clerical functions, such as ensuring that "sign-in sheets" were completed.

According to John Perry, members serving as stewards and wardens were entitled to have their dues payments reimbursed. Although IRB has raised questions concerning whether Robert Perry was eligible for these reimbursements during the period in question, it appears to have assumed that he was entitled to them.

It is undisputed that Robert Perry paid his dues to the Local on a monthly basis. It is also undisputed that on a quarterly basis, he received dues reimbursement checks, usually one for "steward dues" and one for "warden dues." When asked during his sworn examination by IRB whether he made dues payments that were not reimbursed, he stated that he "never noticed it."

IRB's report indicates that during this four year period encompassing 2005-2008, Robert Perry paid a total of \$3,692 to the Local in Union dues and received dues reimbursement checks totaling \$6,177.00. It is unclear what caused the Local to issue the excess payments. Neither the total amount of "steward dues" nor the total amount of "warden dues" matches the actual amount of dues paid by Perry during this period. At the same time, it appears that Perry did not take notice of the excess reimbursements, which is not wholly surprising given that the reimbursements were made on a quarterly basis and the dues payments were made monthly.

At the hearing before us, he offered his belief that "warden dues" payments were actually intended as compensation for serving as a warden rather than a dues



reimbursement. There is no evidence corroborating this claim, and each of the "warden dues" checks clearly indicates that it was for dues "reimburse[ment]." At the same time, given that he served as both a warden and as a steward during the period in question, and the fact that both positions arguably called for dues to be reimbursed by the Local, it is not implausible that he would not have had any particular reason to question the fact that he was provided with two reimbursement checks each quarter. Indeed, given that the quarterly reimbursement checks were issued at different times than when Perry paid his monthly dues, it does not surprise us that he failed to notice whether the reimbursements matched his dues payments. In these circumstances, and in light of his demeanor as a witness which we also regard as candid and forthright, we credit his denial that there was any intent on his part to embezzle roughly \$620 per year from the Local over the four year period in question. Specifically, we do not find that the necessary element of intent can or should be inferred from the circumstances.

We hasten to add, however, that it is clear that Brother Perry in fact received dues reimbursement payments that exceeded his actual dues payments during the same time period by \$2,485.00. We accordingly recommend that the charge that he has embezzled this amount from the Local be dismissed upon his repayment of that amount to the Local. Should he fail to repay this amount, we recommend that his membership in the Local and the IBT be suspended, and that he be barred from exercising all rights and privileges of membership until such time as he has effectuated this repayment.

**G. Charge against Lawrence Maguire for committing the crimes of intimidating a witness and assaulting a police officer while a member of the IBT.**

Brother Maguire is charged with having committed the crimes of intimidating a witness and assaulting a police officer in 2007 while a member of Local 82 and the IBT. He is 60 years old, and has an extensive criminal record which includes convictions for assault, armed robbery and a number of drug related offenses. He first joined Local 82 in 1999, but took a withdrawal card the following year. He was convicted of bank robbery along with his son, Burhoe, sometime after that and was released from prison in 2005, at which time he deposited his withdrawal card and again became an active member of Local 82. His dues history for 2005, 2006 and 2007 reflects sporadic payments.

On December 11, 2007, he made a dues payment that covered him through November of 2007. On that same day, he committed the crimes of assaulting a

police officer and intimidating a witness. He claims that he was asleep in a vehicle when he was awakened, arrested and taken into "protective custody." He further claims that at the police station, where he was taken, he had an altercation with a police officer relating to a controlled substance that was apparently found in his possession, which gave rise to his conviction for assaulting a police officer and intimidating a witness. He took a withdrawal card on December 18, 2007, and appears to have been incarcerated for approximately nine months for these offenses. He asserts that he also participated in a "drug program" in 2009. In either case, he deposited his withdrawal card in September of 2009, and since then has continued the pattern of sporadic dues payments to Local 82. He also appears to have had further contacts with law enforcement, including two arrests in 2010 for indecent or lewd behavior on a train in Boston.

His demeanor at the hearing, and his criminal record, suggest that he suffers from a long standing and serious substance abuse problem. At the hearing, Maguire offered largely incoherent explanations for his actions, except for his observation that none of his criminal offenses were "connected with any activities working or otherwise as a Teamster." In this regard, there is no evidence in the record suggesting that the crimes of assaulting a police officer and intimidating a witness, or any of his other offenses, had anything to do with Local 82, any members of Local 82 (except, of course, for his earlier bank robbery offense, which he committed with his son, Burhoe, when neither were union members) or any other labor organization. Nor is there any evidence that Maguire is a member or associate of organized crime. This, despite the fact that during one of his incarcerations he appears to have become acquainted with former Local 82 member Vincent Federico, who is himself a member of organized crime.

While he is plainly estopped from contesting the fact that he committed the 2007 crimes to which he pled guilty, we are unaware of any precedent for imposing internal union discipline against a member for committing a crime unrelated to the union, unrelated to organized crime and unrelated to any other union. The cases cited by IRB in its report involved convictions of embezzlement from an IBT Local, embezzlement from a non-IBT Local with a long history of interrelationship with an IBT Local and criminal contempt for refusing to testify about organized crime, situations we believe are quite different from Maguire's offenses. See United States v. Teamsters (Friedman and Hughes), 905 F.2d 610 (2<sup>nd</sup> Cir. 1990); United States v. Teamsters (Vitale), 775 F.Supp. 90 (S.D.N.Y. 1991); United States v. Teamsters (Senese and Talerico), 745 F.Supp. 908 (S.D.N.Y. 1990).

We respect IRB's broad jurisdiction to take actions consistent with the goals and objectives of the Consent Decree and in particular its stated concern here about purging Local 82 of an "air of intimidation." But, we can find no evidence in the record suggesting that Maguire has contributed to an "air of intimidation" here. As indicated, none of his crimes involved the Union or its members. He is not accused of preventing members from voting on contracts, in threatening or committing any act of violence involving members or in otherwise engaging in any conduct which could be characterized as intimidation.

Indeed, none of the evidence cited in IRB's Supplemental Evidentiary Statement dated January 26, 2011 suggests that any member of Local 82 felt or feels intimidated by Maguire, despite his less than impressive criminal resume and the manifest defects in his character. Indeed, there is scant evidence in the record of an "air of intimidation" pervading Local 82. True enough, some members have complained about the criminal backgrounds of some of their fellow members, and some have suggested that the former principal officer appeared to have associated with ex-felons. But, we consider it more than a stretch to infer on the basis of this evidence that there existed or exists an "air of intimidation" that has prevented members from speaking out, filing grievances, attending Union meetings or otherwise participating in the affairs of their Local Union. We are certainly cognizant of the clearly improper actions that led to IRB's recommendation of the disciplinary charges we have considered in this report, including improper job referrals, lax adherence to the Local's bylaws and the clearly inappropriate delegation of union representational responsibilities to Burhoe who was prohibited by statute from performing them as a result of his recent conviction of a disqualifying criminal offense. But, in the absence of any evidence that Maguire personally participated in any of this conduct or otherwise did anything to contribute to an "air of intimidation," we are reluctant to recommend a finding that his criminal conviction for assaulting a police officer and intimidating a witness in 2007 warrants his expulsion or suspension from membership.

We accordingly recommend that the charge against Maguire be dismissed.

### **Recommended Penalties .**

The Consent Decree mandates that in cases, such as this one, principles of "just cause" must also be applied in formulating recommended penalties if we conclude the charges have merit. Among other things, this requires that we consider the nature and seriousness of the charged offense, the clarity of applicable prohibitions or requirements, the charged member's position within the Union, the

member's prior service and disciplinary record as a member, if any, and any mitigating circumstances. See generally Enterprise Wire Co., 46 LA 359, 364 (Daugherty, 1966). "Progressive discipline" may also be appropriate in some situations. In either case, recommended penalties should be tailored to the objectives of punishing misconduct, deterring future misconduct and ensuring in appropriate cases that the Union is made whole.

**A. Former officers Geary, Thornton, Milisi, Dizoglio, Logan and Murphy.**

Despite the clear failure of these former officers of Local 82 to fulfill their responsibilities as officers in ensuring that bylaw provisions relating to membership approval of non-routine purchases and, in the case of Brother Geary, relating to the Executive Board's responsibility for approving rules or policies applicable to voting on contracts, we do not believe that any of their actions or failures to act were calculated to harm other members or to enrich themselves personally. In particular, we find no evidence that their actions were motivated by dishonesty or malice. In this connection, we note that these former officers were essentially rank and file members, who worked primarily in the moving or trade show crafts and not as Union officials. We also note that in several cases there are significant testimonials to the personal honesty and integrity of these individuals, and we are unaware that any of them have previously been the subject of internal union discipline. Accordingly, while we conclude that each former officer should be barred for a period of three years from holding any Union employment or office, we find no basis for concluding that their actions warrant suspension or expulsion from Union membership.

Accordingly, it is our recommendation that Brothers Geary, Thornton, Milisi, Dizoglio, Logan and Murphy should be disqualified and barred from holding any office or employment (including as an independent contractor or consultant) with Local 82, the IBT or any other affiliate of the IBT for a period of three years. We do not, however, believe that suspending them from membership or barring them from exercising their rights as Union members (other than holding Union office or employment as described above) is warranted in the circumstances presented here. In reaching this conclusion, we rely on the reasoning of the Panel that imposed similar penalties on former Local 726 officers John Falzone and Michael Marcatante in 2009.

**B. Joseph Burhoe.**

Burhoe's culpability for undermining the Local's contractual and legal obligation to operate a lawful work referral system by undertaking to refer workers to trade show and other employers thereby diverting work opportunities to his friends, family members and allies, and those of the Local's former principal officer, John Perry, is overwhelming. Likewise overwhelming is his culpability for exposing the Local, and its former officers, to potential criminal liability by his acceptance of delegated union representational responsibilities while he was barred by law from serving as a union representative due to his recent conviction and incarceration for armed bank robbery. Finally, Burhoe's culpability for referring workers to Atlantic Liquidators, another instance in which he improperly performed a union representational function, is largely admitted, as is the fact that this project effectively undermined the standards established by Local 82 contracts.

Given the nature and seriousness of these offenses, we recommend that Burhoe be permanently expelled from membership in Local 82, the IBT and all IBT affiliates, and permanently barred from holding office or employment with Local 82, the IBT and all IBT affiliates. This bar would also prohibit him from serving in any manner as a representative of Local 82, the IBT or any other IBT affiliated entity. It would also permanently prohibit him from knowingly associating with members and would correspondingly prohibit members from knowingly associating with him.

**Panel's Recommendations.**

Accordingly, for the reasons set forth above, the Panel recommends the following:

1. That the charges that former Local 82 officers Geary, Thornton, Milisi, Dizoglio, Logan and Murphy improperly caused or allowed Local 82 to make substantial non-routine expenditures while serving on the Executive Board of Local 82 be sustained.
2. That the charges that former Local 82 Trustees Dizoglio, Logan and Murphy failed to perform their responsibilities as Trustees of Local 82 by not verifying the Local Union's bank balances be sustained.

3. That the charge that in 2009 former Local 82 officer Geary arbitrarily enforced a policy regarding members voting on contracts which had not been approved by the Local 82 Executive Board be sustained.
4. That the charges that in 2009 Local 82 members Young, Deamicis and Flaherty created and arbitrarily enforced a policy regarding members voting on contracts which had not been approved by the Local Executive Board be dismissed.
5. That the charge that Local 82 member Joseph Burhoe engaged in a scheme to injure members by selectively enforcing trade show contract provisions requiring Local 82 to refer workers through a lawful work referral system which, in turn, resulted in the diversion of work opportunities to family, friends and political allies of Burhoe and/or John Perry be sustained.
6. That the charge that Local 82 Joseph Burhoe violated 29 USC Sec. 504 by acting as a Union representative for Local 82 when he made work referrals to employers, a role he was barred from filling due to his recent conviction and incarceration for armed bank robbery, be sustained.
7. That the charge that Local 82 member James Deamicis improperly exercised rights of membership when his membership was suspended be dismissed.
8. That the charge that former Local 82 speculating steward Robert Perry embezzled \$2,485 in excess dues reimbursements over a four year period be dismissed upon his repayment of that amount to Local 82, provided that his membership in Local 82 shall be suspended until such time as he has made this repayment.
9. That the charge against Local 82 member Lawrence Maguire for committing the crimes of intimidating a witness and assaulting a police officer while a member of the IBT be dismissed.
10. That former Local 82 officers Geary, Thornton, Milisi, Dizoglio, Logan and Murphy be disqualified and barred from holding any office or employment (including as an independent contractor or consultant) with Local 82, the IBT or any other affiliated entity of the IBT for a

period of three years effective from the date of this report. This means they shall not seek or accept any office or employment (including as an independent contractor or consultant) with Local 82, the IBT or any affiliated entity of the IBT) during this three year period. It also means that during this same period they shall receive no payments, salary, gratuities, gifts, severance payments, allowances, fees, benefit payments or contributions or any other compensation of any kind from Local 82, the IBT or any affiliated entity of the IBT, except that they may receive any pension, vacation or other benefits from existing benefit plans maintained by Local 82, the IBT or affiliated entities of the IBT that have vested or accrued prior to their removal from the Local 82 Executive Board. They may also receive any compensation, including benefits, during this three year period in connection with any service performed as an employee covered under a collective bargaining agreement negotiated by Local 82 or any other IBT affiliate.

11. That Local 82 member Joseph Burhoe be permanently expelled from membership in Local 82, the IBT and all IBT affiliated entities, that he be permanently barred from holding office or employment (including as an independent contractor or consultant) with Local 82, the IBT and all IBT affiliated entities and that he be permanently barred from serving as a representative of Local 82, the IBT and all IBT entities. This also means that he may not receive any payments, salary, gratuities, gifts, severance payments, allowances, fees, benefit payments or contributions or any other compensation of any kind from Local 82 or other IBT affiliated entities, except that he may receive any pension, vacation or other benefits from existing benefit plans or programs maintained by Local 82 or other IBT affiliated entities which has vested or accrued prior to his expulsion from membership.

SO UNANIMOUSLY DECIDED AND RECOMMENDED, on March 16, 2011.

By: Ronald B. Schwab  
Ronald B. Schwab

By: \_\_\_\_\_  
L. D. Fletcher

By: \_\_\_\_\_  
Marcus King



SO UNANIMOUSLY DECIDED AND RECOMMENDED, on March 15, 2011.

By: \_\_\_\_\_  
Ronald B. Schwab

By:   
L. D. Fletcher

By: \_\_\_\_\_  
Marcus King

SO UNANIMOUSLY DECIDED AND RECOMMENDED, on March 15, 2011.

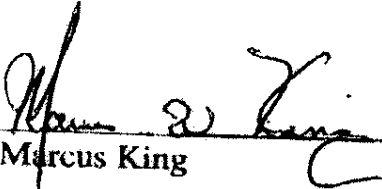
By:

Ronald B. Schwab

By:

L. D. Fletcher

By:

  
Marcus King