

To: James P. Hoffa, IBT General President
From: Independent Review Board Members
Re: Proposed Charge against Local 710 Secretary-Treasurer
and Principal Officer Patrick Flynn
Date: June 19, 2014

I. RECOMMENDATION

The Independent Review Board recommends to the IBT General President that Local 710 Secretary-Treasurer and principal officer Patrick W. Flynn ("Flynn") be charged with embezzlement and breaching his fiduciary duties in the disposition of 1,383 gift cards the Local purchased, worth \$58,325, which were solely under his control.¹ On several occasions Flynn caused the Local to purchase thousands of dollars of gift cards more than needed for the authorized use. After gift cards were distributed for the authorized purposes, which were either Christmas gifts for stewards or gifts for members attending a meeting, Flynn maintained possession and control of the surplus cards. At this point, the cards were no longer reflected in Local records. The

¹ An officer's embezzlement from a labor organization, 29 U.S.C. §501(c), is an act of racketeering under 18 U.S.C. §1961 and therefore is an act which every member is enjoined from committing by the injunction in the March 14, 1989 Consent Order in United States v. IBT, 88 Civ. 4486.

cards the Local purchased could be used by whoever possessed them and were the equivalent of cash. Flynn kept no records of the over \$58,000 in cards he used, including how the cards were used and for what purpose. (Ex. 41; Ex. 5 at 180-182, 185-186, 188-190, 192-193, 195-197; Ex. 197 at 28-36, 38-40, 53-56, 65; Ex. 198 at 12-16, 23; Ex. 199 at 10-12, 21-23, 27-28; Ex. 6 at 78-81, 99; Ex. 8 at 43-50; Ex. 97 at 45-51; Ex. 7 at 60-66; Ex. 100 at 45-46) The surplus cards he controlled and disbursed were 22% of the total value of the gift cards the Local purchased. (Ex. 251) The Local stated that as of September 5, 2013, it had no gift cards in its possession. (Exs. 1, 2 and 4)

By his conduct, while the Secretary-Treasurer of Local 710, Flynn brought reproach upon the IBT, breached his fiduciary duties and embezzled in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(1), (2) and (3) of the IBT Constitution.

In addition, Flynn brought reproach upon the IBT and interfered with the Local's legal and record keeping obligations under federal law in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(2) and (5) of the IBT Constitution. By this, he exposed the Local to the risk of civil and criminal actions.

II. SUMMARY

Since 2004, Flynn has been the Secretary-Treasurer and principal officer of Local 710, located in Mokena, Illinois. (Ex. 5 at 9) The Local Executive Board authorized the purchase in some years of gift cards with a face value of \$150 (" \$150 cards") to be given to the Local's stewards as Christmas gifts and of gift cards with a face value of \$25 (" \$25 cards") to be distributed at a membership meeting to attending members.² Flynn caused on several occasions the purchase of substantially more cards than necessary for the authorized purpose. (Ex. 41) After the cards had been distributed for the authorized purposes, the remaining cards went under Flynn's exclusive control. (Ex. 5 at 180-186; Ex. 197 at 29-34, 38; Ex. 199 at 10-12; Ex. 6 at 84-85; Ex. 7 at 63; Ex. 8 at 43) No one but Flynn at the Local knew the amount of the cards he controlled or was informed of their use. (Ex. 5 at 180-188; Ex. 6 at 84-86; Ex. 7 at 60-66; Ex. 8 at 43, 46; Ex. 197 at 29-36, 38; Ex. 198 at 13-14, 23) These surplus cards were Local property. Yet, the surplus cards in Flynn's possession were never included in statements of the Local's assets or reflected in expenditures. (Ex. 5 at 180-182,

² Each year, the Executive Board meeting minutes which authorized the purchase of the \$25 gift cards specified the membership meeting at which the cards would be distributed to the members. (Exs. 62-65) As discussed below, in 2008, there was no mention in any membership meeting that gift cards were distributed to members. (Ex. 66) In the years 2009 through 2011, the distribution of the \$25 holiday gift cards were reflected in the minutes. (Exs. 67-69) In November 2009, there was a purchase of 250 \$25 gift cards without required Executive Board approval. (Exs. 29, 70)

185-186, 188-190, 192-193, 195-197; Ex. 197 at 28-29, 32-36, 39-40, 53-56, 65; Ex. 198 at 12, 15-16, 23; Exs. 9-18) The cards were not kept in the Local's safe with petty cash, but kept in Flynn's office. (Ex. 5 at 180-182; Ex. 199 at 23; Ex. 49 at B-2) Flynn alone used the over \$58,000 in surplus cards. (Ex. 41; Ex. 5 at 180-186; Ex. 197 at 29-34, 38; Ex. 199 at 10-12, 22; Ex. 6 at 84-85; Ex. 7 at 63; Ex. 8 at 43) There were 190 surplus \$150 gift cards and 1,193 surplus \$25 gift cards worth \$58,325 that went under Flynn's control that either he could not produce or document their use. (Ex. 41; Ex. 5 at 180-182, 185-188, 192-194; Exs. 216, 245)

The number of stewards was known at the time of the purchases of \$150 cards. (Exs. 213, 19-21; Ex. 197 at 28, 30-31) After learning from the Local's controller the number of stewards, Flynn told her how many \$150 cards to purchase. (Ex. 197 at 28, 30-31) Each year the \$150 cards were bought, Flynn caused the Local to purchase at least 48 more cards, worth \$7,200 or greater, than the number of stewards. (Exs. 19-26, 41) There was no Executive Board approval for Flynn's purchase of excess \$150 cards in any year. (Exs. 70-74) Article 13, Section 1(h) of the Local's Bylaws required such approval. (Ex. 27 at 8-9; Ex. 207 at 9) No union purpose for the purchase of the excess cards was reflected in any Local document. In contrast to the purchases of the untraceable liquid cards, in 2011 and

2013 when the Local purchased steak packages instead of cards for stewards, no surplus packages were ordered. (Exs. 34-38)

In addition, Article 13, Section 1(i) of the Local Bylaws required Executive Board approval to dispose of Local property. (Ex. 27 at 9; Ex. 207 at 9) There was no Executive Board approval for the disposal of \$58,325 of surplus cards. (Exs. 70-74)³ The surplus cards in Flynn's possession were not shown as assets on the Local's monthly Trustee reports. (Exs. 9-13, 39; Ex. 197 at 39-40) The surplus gift cards were also not reflected as assets or expenditures of the Local on the Local's Forms LM-2. (Ex. 5 at 180-182, 185-186, 188-190, 192-193, 195-197; Ex. 197 at 28-29, 32-36, 38-40, 53-56, 65; Ex. 198 at 12-16; Exs. 40, 75-78, 180, 203-206) Nor were they included in the assets in the year end financial statements the Local's outside accounting firm certified. (Exs. 14-18, 156, 208-210) After transfer to Flynn, they vanished from Local records.

For example, as of year end 2012, Flynn had, at least, 46 surplus \$150 cards and 10 surplus \$25 cards valued at \$7,150 under his control as evidenced by their subsequent documented use or claimed expiration in 2013. (Exs. 211, 122) These were

³ Subsequent to the IRB's investigation and inquiries regarding the gift cards, in 2013 the Local documented the use or claimed expiration of some \$150 gift cards. (Exs. 1, 2, 125-128, 201-202) Such \$150 cards were excluded from the 1,383 unaccounted for surplus gift cards in Flynn's possession at issue in this report.

not reflected as a Local asset on the 2012 Form LM-2, the December 2012 Trustees Report or the certified financial statement for 2012. (Exs. 40, 206, 211, 13, 18; Ex. 197 at 39-40; Ex. 210)⁴ Flynn signed the LM-2 under oath. (Ex. 40) At the time Flynn possessed the \$7,150 of cards at year end 2012, no Local record reflected the existence of this Local property. (Ex. 197 at 29, 30-36, 38-40; Ex. 130) Federal law required the Local to maintain documents sufficient to explain expenditures and to record assets. 29 U.S.C. §§ 431, 436, 439. (Ex. 265) The IBT auditor who was at the Local in 2012 performing an audit was not aware of the cards' existence. (Ex. 95 at 27-30)

As an explanation for the use of some cards, without any documentation such as receipts or contemporaneous entries in the Local's records, Flynn claimed he "might" have distributed 40 \$150 cards to Local staff each year between 2009 and 2012. (Ex. 5 at 195-198; Exs. 44, 146) In response to an IRB request for a sworn written response regarding this alleged distribution (Ex. 246), Flynn subsequently claimed that his "best guess" was that between 2009 and 2012, he distributed 152 \$150 cards to Local staff for Christmas. (Ex. 245)⁵ Flynn acknowledged that he had

⁴ There is no evidence showing surplus gift cards in Flynn's possession were listed as Local assets in reports for prior years either. (Exs. 14-18)

⁵ In a June 6, 2014 letter, Flynn claimed to have distributed 38 \$150 gift cards in 2009, 40 in 2010, 40 in 2011 and 34 in 2012. (Ex. 245)

no records to establish this alleged distribution and hedged his claim by stating it "may not be absolutely accurate." (Ex. 245)⁶ Thus, Flynn's "best guess" was that he gave \$22,800 of Local money to employees without memorializing in any way this transfer of Local assets. (Ex. 245)⁷ In fact, given the expiration dates of the \$150 cards and the number of cards still in his possession in 2013, for the years 2011 and 2012 Flynn's undocumented claims were not possible. (Exs. 41, 83) In 2011, there would have been an insufficient number of unexpired cards to give out 40 that year as he claimed. (Exs. 41, 245, 79, 82-83) In 2012, Flynn would have had over 34 cards available, the number he claimed to have distributed to staff that year. (Exs. 41, 83, 245) That he did not give that number of cards out was evidenced by the number of cards used in 2013. (Exs. 41, 83)

Flynn's intent to embezzle was evidenced by the totality of the circumstances. He intentionally purchased surplus gift cards without authority for an unstated purpose. The existence of the surplus gift cards was not noted in Local records. (Ex. 197 at 22-23, 27-28, 34-36, 38-41; Ex. 198 at 12-16, 23) He kept them in his office and not with other Local property in the

⁶ Moreover, the testimony of four Local officers contradicted Flynn's claimed Christmas distribution to them all four years between 2009 and 2012. (Ex. 6 at 85-86; Ex. 8 at 46-48; Ex. 97 at 48-50; Ex. 7 at 69-71)

⁷ In addition, the Local's controller, assistant controller and office manager were unaware of any distribution of gift cards each year to staff. (Ex. 197 at 35-36; Ex. 199 at 21-22; Ex. 198 at 13-14)

Local's safe. (Ex. 5 at 180-182; Ex. 199 at 22-23) Flynn, an experienced Secretary Treasurer, a long-time union employee who majored in accounting in college and an IBT Vice President when he initiated his scheme, failed to document to whom he transferred the union assets, how much was transferred, when they were transferred and for what purpose. (Ex. 5 at 8-10, 180-182; Ex. 197 at 29-36, 38; Ex. 47; Exs. 1 and 2) He incredibly claimed he believed he only had to document use of Local assets if he were seeking reimbursement. (Ex. 216) He failed to follow the minimum required record keeping for Local expenditures under federal law, 29 U.S.C. §436, and IBT rules and policies. (Exs. 193, 265) Moreover, while in his personal possession the surplus cards were not disclosed as assets of the Local in Trustees Reports, Form LM-2s or the annual certified financial statements. (Exs. 9-18, 40, 75-78, 204-211, 257-264) Indeed, their existence was not reflected in the records of the Local. (Exs. 9-13; Ex. 197 at 39-40; Ex. 5 at 180-182, 185-186, 188-190, 192-193, 195-197) In sum, Flynn treated the \$58,325 not as Local property but as his own.

III. JURISDICTION

Pursuant to Article XIX, Section 14(c) of the IBT Constitution, this matter is within the jurisdiction of the IBT General President. Paragraph G(e) of the March 14, 1989 Consent

Order in United States v. IBT, 88 Civ. 4486 (S.D.N.Y.) and Paragraph I(6) of the Rules and Procedures for Operation of the Independent Review Board ("IRB Rules") require that within 90 days of the IRB's referral of a matter to an IBT entity, that entity must file with the IRB written findings setting forth the specific action taken and the reasons for that action. Pursuant to Paragraph (I)(9) of the IRB Rules, not meeting this deadline may be considered a failure to cooperate with the IRB.

IV. INVESTIGATIVE FINDINGS

A. Patrick W. Flynn

Flynn has been Local 710's Secretary-Treasurer and principal officer since 2004. (Ex. 5 at 8-9; Ex. 47)⁸ He majored in accounting in college. (Ex. 47)

Flynn has been a Local employee since November 2, 1981. (Ex. 47) He has been a member of the Local's Executive Board since March 1993. (Ex. 47) He was an International Vice-President from March 1997 until his resignation in January 2010. (Ex. 5 at 9-10; Ex. 48) He was also an officer of Joint Council 25 from 2004 to 2009. (Ex. 5 at 9; Exs. 51-55)⁹

⁸ Flynn has been a member of the IBT since January 1973. (Ex. 61)

⁹ Flynn was a Trustee on Joint Council 25 in 2004. (Ex. 51) His salary was \$36,490. (Ex. 51) From 2005 to 2008, he was the Recording Secretary of Joint Council 25. (Exs. 52-55)

In 2013, Local 710 paid Flynn a salary of \$90,480 and commissions of \$392,063.93, totaling \$482,543.93. (Ex. 58)¹⁰ As of December 31, 2013, the Local owed Flynn an additional \$44,900.46 in deferred commissions previously earned but not yet paid. (Ex. 57)¹¹

Flynn was also a Trustee of the Teamsters Union Local 710 Pension Fund, the Teamsters Union Local 710 Health and Welfare Fund, the Local 744 Beverage Division Pension Fund, the Local 710 Employees Trust Fund and the Local 710 DRIVE Fund. (Ex. 5 at 9-10; Exs. 49, 60)

B. Local Bylaw Provisions regarding the Purchase and Disposal of Local Property

Pursuant to Article 13, Sections 1(h) and (i) of the Local's Bylaws, the Executive Board has the authority to purchase and dispose of, among other things, ". . . property, rights and privileges". (Ex. 27 at 8-9; Ex. 207 at 9)¹² As

¹⁰ His reported gross income received from the Local in 2013 was \$485,051.93. (Exs. 56, 58) Flynn also received \$414 in taxable per diem and taxable income of \$2,094 for personal use of a union automobile. (Exs. 56, 58) The LM-2 for 2013 listed Flynn's gross salary as \$482,958. (Ex. 59)

¹¹ The commissions were deferred from the year 2012. (Ex. 57)

¹² Article 13, Sections 1(h) and (i) of the Local's Bylaws provides that the Executive Board has the authority to:

(h) lease, purchase or otherwise acquire in any lawful manner for and on behalf of the organization, any and all real estate and other property, rights or privileges whatsoever deemed necessary or convenient for the prosecution of its affairs, and which the organization is authorized to acquire . . .

discussed below, Flynn violated these Bylaw provisions in his purchase and disposition of the unauthorized cards. Prior to the IRB's investigation, there was no Executive Board approval for the disposal of the surplus cards Flynn controlled.¹³

Indeed, there were no Local records tracking either the cards in Flynn's sole possession or his use of those cards. (Ex. 5 at 180-182, 185-186, 188-190, 192-193, 195-197; Ex. 197 at 28-36, 38-40, 53-56, 65; Ex. 198 at 12, 15-16, 23; Ex. 199 at 22-23, 27-28; Ex. 6 at 80-81, 99; Ex. 8 at 45-46, 48; Ex. 97 at 46-47; Ex. 7 at 62-64; Ex. 100 at 45-46) The cards' existence was not reflected in Local records. (Exs. 9-13; Ex. 197 at 39-40)

In the years 2009, 2010 and 2012, Flynn caused the Local to purchase each year, at least 48 more \$150 cards than were needed for the authorized union purpose of gifts to stewards. (Exs. 41, 19-21, 22-25, 85, 64, 91) With respect to the \$25 gift cards, in 2011, Flynn at an Executive Board meeting made a motion to purchase 1,000 \$25 gift cards, well above the number needed for

(i) sell or dispose of any real or personal estate, property, rights or privileges belonging to the organization whenever in their opinion its interests would thereby be promoted;

(Ex. 27 at 8-9; Ex. 207 at 9)

¹³ Only in 2013, after the IRB's investigation began, did the Executive Board give "... Flynn the authority to distribute to, or use for, the Membership, surplus items as he deems appropriate. ..." (Exs. 42, 125, 126) There was no such approval prior to this for the disposal of surplus gift cards. As discussed below, for the \$25 gift cards, some surplus cards were raffled at membership meetings prior to the IRB's investigation. (Exs. 48, 60, 117-122) These distributions are discussed below and those cards are not included in the 1,383 surplus gift cards at issue in this report.

the stated purpose of distribution at a membership meeting.

(Exs. 65, 68, 177) Although the Board members would have known the number of cards exceeded those necessary for the stated purpose and that the surplus cards would be under Flynn's sole control, they passed the motion. (Exs. 65, 177; Ex. 6 at 77-79, 84-85, 87; Ex. 7 at 60, 63-64; Ex. 97 at 45-48; Ex. 100 at 41-42, 44) In November 2009, he also caused to be purchased 250 \$25 gift cards without any specific authorization. (Exs. 29, 70)

C. Flynn's Embezzlement, Breach of Fiduciary Duties and Failure to Maintain Required Records

1. Overview

Between October 2008 and December 2012, Local 710 purchased \$267,500 worth of cards in denominations of either \$150 or \$25. (Exs. 22-26, 28-33, 251, 252, 214) The Local's Executive Board authorized the purchase of Christmas gifts to the stewards in the years 2009, 2010 and 2012. (Exs. 85, 64, 91) The stewards were given \$150 cards in those years. (Exs. 19-21) The Local's Executive Board also authorized the purchase of cards to be distributed as Christmas gifts at a particular membership meeting in each of the years 2008 through 2011. (Exs. 62-65) These were \$25 cards. (Exs. 28-33, 62-65)¹⁴ In addition, in

¹⁴ These \$25 gift cards were to Jewel-Osco, a supermarket, Central Grocers and Walgreens. (Exs. 28-33)

November 2009, without any specific Executive Board approval, with Flynn's approval noted on the check voucher, an additional 250 \$25 gift cards were purchased. (Exs. 29, 70)

Each year, the Local purchased significantly more gift cards than were necessary for the authorized purposes of Christmas gifts for both the stewards and for the members attending the meeting. (Ex. 41) Flynn decided how many cards to purchase and instructed the staff on the number to buy. (Ex. 6 at 77-78; Ex. 197 at 28, 30-31; Exs. 22-26, 28-33) Eighteen percent (239) of the 1,325 \$150 cards (\$35,850) Flynn caused to be purchased were unauthorized. (Exs. 214, 213) After the distribution to the stewards, the raffling of two more cards at a January 2010 membership meeting and crediting the documented use and claimed expiration of 46 \$150 cards that occurred in 2013 after the IRB's investigation began, there were 190 \$150 cards (\$28,500) that were under Flynn's control for which there was no documented use for a union purpose. (Ex. 41) With respect to the \$25 cards, Flynn caused an unauthorized purchase of 250 cards (\$6,250) in November 2009. (Exs. 29, 70)¹⁵ In November 2011, he had the Executive Board vote to purchase several hundred more \$25 cards to give at a membership meeting than the Local needed as he and the Board knew. (Exs. 65, 177)

¹⁵ The Local received a discount and the cost of the 250 cards worth \$6,250 was \$6,062.50. (Ex. 29)

The \$25 cards available after the distribution to the members at the designated meetings, raffles at other membership meetings and donations to the Local 710 Pioneers Club in 2009 and 2011, totaled 1,193 cards (\$29,825) which Flynn controlled. (Ex. 41)¹⁶

As of September 5, 2013, the Local had no cards in its possession. (Exs. 2 and 4) The combined value of the unaccounted for \$150 and \$25 cards that had been under Flynn's sole control was \$58,325. (Ex. 41)¹⁷

The cards functioned like cash. Whoever possessed one could use it. The IRS has recognized gift cards are a cash equivalent. (Ex. 88) The IBT auditor for Local 710 also observed that gift cards should be treated as cash. (Ex. 95 at 29) At a minimum, because there was a Local expenditure, information as to their disposition, including to whom, when, where used, the amount and the union purpose for any use should have been documented. (Exs. 193, 265) See, 29 U.S.C. §§ 431, 436, 439. Hodgson v. United Mine Workers, 1971 WL 705 at *1 (D.D.C. April 13, 1971) (union's failure ". . . to maintain and keep supporting documents reflecting the date, purpose and specific amount of the disbursement, frequently in cash, and in

¹⁶ The Local 710 Pioneers Club is a retirees club. (Ex. 94)

¹⁷ As detailed below, there were 190 unaccounted for \$150 gift cards in Flynn's control worth \$28,500 and 1,193 unaccounted for \$25 gift cards worth \$29,825. (Ex. 41)

many instances failed to obtain receipts from the ultimate recipients of funds disbursed" violated 29 U.S.C. §436). Since the gift cards were a cash equivalent, Flynn, the Secretary-Treasurer, should have followed the IBT rules regarding the treatment of petty cash in dealing with the cards. (Ex. 95 at 54)

Flynn was a Local employee for 33 years, including being Secretary-Treasurer since 2004. (Ex. 5 at 8-9) He was an accounting major in college. (Ex. 47) He was a fiduciary holding the members' money in trust. He was under a legal obligation to keep records of Local expenditures and assets. 29 U.S.C. §§436, 439. (Ex. 265) He kept no records to track how he disposed of these union assets. (Ex. 5 at 8-11, 185-188; Ex. 197 at 32-35) The cards became an off-the-books slush fund for Flynn's use and for which he was not held accountable in any way. By not maintaining records, he deliberately concealed his use of the cards. He would add to and refresh the slush fund on each occasion he caused the Local to buy substantially more cards than needed for the authorized purpose. That this was intentional is evidenced by his pattern of buying more than needed, never adjusting how many he purchased despite prior surpluses.

2. Flynn Controlled the Surplus \$150 Gift Cards

In 2009, 2010 and 2012, the Local purchased 1,325 \$150 cards for \$198,750. (Exs. 214, 22-26)¹⁸ Whoever possessed these cards could use the cards at any store for any item without restriction. The Executive Board authorized the purchases of the \$150 cards each year for Christmas gifts to the stewards. (Exs. 85, 64, 91; Ex. 5 at 181, 188-189, 192; Ex. 6 at 77-78; Ex. 7 at 64; Ex. 100 at 44-45; Ex. 97 at 48-49)¹⁹ In these years only 1,087 were needed for this purpose. (Ex. 214) After the controller informed Flynn of the number of stewards, he instructed her as to the number of \$150 cards to buy. (Ex. 197 at 28, 30-31) Flynn testified, ". . . we would approximate the number of gift cards we needed always buying a sufficient number". (Ex. 5 at 190) That was not the case. The number of stewards was known from Local records, yet each year Flynn caused at least 48 more than needed to be purchased. (Exs. 41, 213, 214)

The \$150 cards purchased in the years 2009, 2010 and 2012, exceeded the number of stewards by 48 (\$7,200), 122 (\$18,300) and 68 (\$10,200), totaling \$35,700. (Ex. 41) Flynn caused the purchases to be made. (Exs. 22-25; Ex. 197 at 28-29, 31-34)

¹⁸ In 2009 and 2012, there were officer elections at the Local. (Exs. 101-102)

¹⁹ In 2009 and 2010, the Executive Board approved gifts for the stewards and did not specify that the gift would be gift cards. (Exs. 64 and 85) Flynn selected the gift. (Ex. 197 at 28)

When the \$150 cards were received at the Local, the controller initially maintained control. (Ex. 5 at 181, 189; Ex. 197 at 30-32) She then mailed each steward on the list one card. (Ex. 197 at 31-32; Ex. 5 at 181; Ex. 100 at 45-46; Ex. 7 at 65; Ex. 8 at 45-46; Ex. 103 at 41-42; Ex. 97 at 48-51; Exs. 19-21) After the mailing, she gave the extra cards to Flynn and the Local record keeping stopped for these cards. (Ex. 5 at 181-182; Ex. 197 at 33-36, 39-40; Ex. 97 at 48-51) When Flynn took custody and control of the surplus cards, the existence and disposition of the cards were not reflected in Local records. (Ex. 197 at 29-36, 38-40)²⁰ Flynn kept the cards in his office, either in a small safe or in a box. (Ex. 5 at 181-182; Ex. 8 at 46)²¹ Even the Local's President did not know where Flynn kept the surplus cards. (Ex. 6 at 78)

The Local's steward's lists for 2009 through 2013 reported the number of stewards known when the cards were mailed. The

²⁰ In 2013, after the IRB investigation had been ongoing, the use of some cards was documented. (Ex. 211; Ex. 5 at 181-182, 190-191; Ex. 97 at 46-47)

²¹ Local 710 had a safe in its offices. (Ex. 49) IBT auditor Edward Pratt testified that in general when he conducted audits, he observed what is in the Local's safe and noted that in his audit. (Ex. 95 at 29-30) In his audit report for Local 710 for the period from June 2009 to July 2012, Pratt noted that the following was in the Local's safe: "Blank checks; petty cash; important papers etc." (Ex. 49 at Schedule B-2) The absence of gift cards in the Local's safe was consistent with Flynn's testimony that he kept the cards in his office.

following displays the pattern of Flynn purchasing more than necessary for the authorized need:

<u>Year</u>	<u>Number of Stewards</u>	<u>Gift Cards Purchased</u>	<u>Value of Excess Cards</u>	<u>Percentage Purchased Not Needed</u>
2009	352	400	\$ 7,200	12%
2010	378	500	\$18,300	24%
2011	369	0	-	
2012	357 ²²	425	\$10,200	16%
2013	349	0	-	

(Exs. 213, 214, 41, 38)

3. The Purchase of Steak Packages

The Local purchased steaks for the stewards in 2011 and 2013. (Exs. 110, 34-38) These cost \$130 for each package in 2011 and \$142.82 each in 2013. (Exs. 110, 34-38) Flynn determined how many steak packages to purchase. (Ex. 197 at 52-53) In those years, no excess packages were purchased. (Exs. 110, 34-38) According to the Local's records, in 2011, there were 369 stewards and 368 packages were purchased. (Exs. 34,

²² As discussed below, there were 356 stewards on the controller's 2012 list. (Ex. 213) The Local also provided a copy of a February 8, 2013 letter to a steward enclosing a gift card. (Ex. 247) Accordingly, 357 gift cards were distributed to stewards in 2012.

35)²³ The vendor mailed these packages directly to the stewards. (Ex. 34)²⁴

In 2013, the Local also purchased steak for the stewards' gifts. (Ex. 36) According to the minutes of the November 22, 2013 Executive Board meeting, "Brother Flynn made a motion to purchase a steak gift package for the Stewards from a Union Purveyor consistent with our past practices". (Ex. 124) On December 30, 2013, the Local issued a check to Chicago Gourmet Steaks for \$54,091.31. (Ex. 36) The check voucher stated, "Union stewards Christmas gifts steaks/338 ctns". (Ex. 36)²⁵ The Local subsequently purchased another 14 steak packages, for a total of 352 steak packages including three replacement packages

²³ According to the minutes of the November 8, 2011 Executive Board meeting, "President Sweeney made a motion in long standing practice that a payment of a Christmas bonus or gift to the non-elected staff, office employees, and stewards of Local 710 be left to the discretion of Secretary-Treasurer Pat Flynn to be commensurate with prior years." The motion passed. (Ex. 65) On January 16, 2012, the Local issued a check in the amount of \$53,516.40 to Chicago Gourmet Steaks for 368 boxes of "6/8oz/Center Cut Filet & 6/12oz/Bnis NY Strips". (Ex. 34) The notation on the check voucher stated "replaces ck 14089 dated 12-28-2011 stewards Christmas gifts". (Ex. 34) The letter from Chicago Gourmet Steaks stated each steak package cost \$142.82. (Ex. 34) However, the company only charged the Local \$130.00 per steak package. (Ex. 34)

²⁴ The company charged the Local \$4,600 for shipping. (Ex. 34)

²⁵ The invoice stated 338 steaks cost \$48,273.16. Taxes were \$1,086.15 and shipping costs were \$4,732. (Ex.36)

for packages not received. (Ex. 37)²⁶ There were 349 stewards.

(Exs. 36-38)²⁷

²⁶ On January 15, 2014, the Local issued a check to Chicago Gourmet Steaks for \$2,303.47 for 14 additional steak packages. (Ex. 37) The check voucher stated "balance of stewards Christmas pkg Dec" (Ex. 37) A handwritten notation on the invoice stated "Balance of gifts from stewards Christmas deliveries (gifts)". (Ex. 37) According to a fax from the Local to Chicago Gourmet Steaks, one page of the stewards address list had not been included with the first order. (Ex. 37) This additional page included the names of 11 stewards. (Ex. 37) In addition, the Local provided the vendor with names of three stewards on the stewards list who had not received a steak package. (Ex. 37) Accordingly, the Local purchased 352 steak packages, three greater than the 349 stewards on the 2013 list in order to resend steaks to three stewards. (Exs. 37-38)

²⁷ In 2007 and 2008, the Local also purchased steaks for the stewards and the number of packages purchased was close to the number of stewards. In 2007, the Local purchased 342 steak packages at \$142.82 each for stewards when there were 339 stewards on the stewards list that year. (Exs. 110, 104-105, 111) On September 28, 2007 the Executive Board approved giving all stewards a steak package for the holidays. (Ex. 115) On November 30, 2007, the Local issued a check to Chicago Gourmet Steaks for \$55,153.62 for 338 packages of steaks. (Ex. 104) The Local's check voucher stated, "Deposit on Stewards X-mas gifts". (Ex. 104) On December 20, 2007, the Local issued another check to Chicago Gourmet Foods for \$163.17 for one package of steaks apparently for a steward. (Ex. 106) On March 14, 2008, the Local issued a check to Chicago Gourmet Steaks for \$489.52. (Ex. 107) The check voucher stated "Xmas stewards gifts missed". (Ex. 107) The invoice stated the Local purchased three boxes of steaks and listed the names of three members who appeared to be stewards. (Exs. 107, 111, 112) Accordingly, for Christmas 2007, the Local purchased a total of 342 steak packages for stewards. (Exs. 104, 106, 107)

On December 10, 2007, the Local issued another check to Chicago Gourmet Steaks for \$3,263.53. (Ex. 105) The check voucher stated "balance on Stewards X-mas gift." (Ex. 105) The invoice stated it was for 18 boxes of steaks and the reshipping of two boxes of steaks. (Ex. 105) The steak packages that were not reshipped were sent to IBT employees and Local vendors. (Exs. 105, 116) At the September 28, 2007 Executive Board meeting, Flynn was given the discretion to give gifts to International employees. (Ex. 115) Flynn was an International Vice President at the time. (Ex. 5 at 9) No union purpose for the Local to be giving gifts to International employees is apparent or recorded. (Ex. 115)

In 2008, the Local's records reflected that there were 339 stewards and the Local purchased 365 steak packages, 26 more than needed. (Exs. 112, 108) According to a May 8, 2014 letter from the Local, the additional 26 steak packages were given to IBT officials and employees and Local service providers. (Ex. 123) The Executive Board gave Flynn the authority to give gifts to IBT personnel and Local vendors. (Ex. 114) According to the minutes of the September 18, 2008 Executive Board meeting, "Trustee Willie Brand made a motion to authorize Secretary-Treasurer Pat Flynn to send all Local 710

4. 2009 Purchase of \$150 Cards

The minutes of the November 3, 2009 Executive Board meeting stated, "Secretary-Treasurer Pat Flynn made a motion to purchase a holiday gift for all local 710 stewards to [sic] commensurate with previous years." The motion was approved. (Ex. 85) The Board did not vote on the particular gift. (Ex. 85) As he would have known and been told, Local records reflected there were 352 stewards at the time. (Ex. 213; Ex. 197 at 31) Flynn instructed the controller to buy 400 \$150 gift cards for the stewards. (Ex. 197 at 28, 31; Ex. 22) On November 30, 2009, Local 710 paid \$61,180 to First American Bank for the 400 cards. (Ex. 22)²⁸

At Flynn's direction, the Local purchased 48 cards (\$7,200) more than needed for the authorized purpose. (Exs. 19, 22, 41; Ex. 197 at 30-31)²⁹ There was no explanation in the Local's records for Flynn's unauthorized \$7,200 purchase of unneeded, untraceable, liquid cards. These cards had an expiration date of December 2012. (Ex. 82)

stewards a holiday gift as in previous years." The motion passed. (Ex. 114) On January 12, 2009, the Local issued a check to Stock Yards Packing for \$58,181.00 for steak packages for the stewards. (Ex. 108) The notation on the check voucher stated "X-mas holiday steak pkg for stewards." (Ex. 108) Attached to the check voucher was a list of 365 steak orders. (Ex. 108) The Local expense in giving gifts to International employees is not apparent. Flynn was an IBT Vice President at the time. (Ex. 5 at 9 and 10)

²⁸ The invoice indicated that in addition to the value of the gift cards, there was a \$2.95 per card transaction fee. (Ex. 22)

²⁹ The controller's stewards list for 2009 contained 352 stewards. (Ex. 213) There were handwritten notations stating "retired", "removed" or "deleted" for six stewards on the list. (Ex. 213) However, the controller indicated that 352 gift cards were distributed to stewards in 2009. (Ex. 213)

After the mailing to the stewards, the controller gave the excess cards to Flynn. (Ex. 197 at 29, 32-34, 38) Local record keeping stopped after the distribution to stewards when the cards came under Flynn's exclusive control. (Ex. 197 at 32-36; Ex. 198 at 12, 15-16, 23) There was no Local record that showed the value of the cards that remained after the authorized distribution. (Ex. 5 at 180-185; Ex. 197 at 29-36, 38)

Thus, at year end 2009, there were 48 extra cards which were not reflected as assets of the Local or the use of which was not documented. (Ex. 10; Ex. 197 at 40) The Trustees Report and year end financial statement for December 31, 2009 did not note any asset value for any cards in Flynn's possession. (Ex. 10; Ex. 197 at 40; Exs. 15, 208) The 2009 LM-2 also did not include any value for surplus cards. (Exs. 76 and 204)

According to the minutes of the January 31, 2010 General Membership meeting, two \$150 Visa gift cards were raffled to members. (Ex. 48)³⁰ Deducting these, 46 unauthorized gift cards purchased in 2009 (\$6,900) were either in Flynn's possession or had been used without any documenting of the use. (Ex. 41) No prior or subsequent use of these cards was reflected in Local

³⁰ The names of the two members who won the \$150 gift cards were listed in the minutes. (Ex. 48)

records. (Exs. 70-74; Ex. 5 at 180-182, 185-186, 188-190, 192-193, 196-197; Ex. 197 at 28-29, 32-36, 38-40, 53-56, 65)³¹

5. 2010 Purchase of \$150 Gift Cards

At the October 29, 2010 Executive Board meeting, "President Jim Dawes made a motion . . . that a payment of a Christmas bonus or gift to the staff, office employees, stewards and vendors of local 710 be left to the discretion of Secretary-Treasurer Pat Flynn to [sic] commensurate with prior years". (Ex. 64) The motion was approved. (Ex. 64) In 2010, the Local's office employees and the two maintenance employees were given Christmas bonus checks. (Exs. 86-87)³² Flynn chose \$150 cards as the gift for the stewards. (Ex. 197 at 28-33; Ex. 20)

As of November 23, 2010, the Local had 378 stewards. (Ex. 213)³³ The Local's practice was for Flynn to instruct the controller how many cards to buy after being informed of the

³¹ That year Flynn also bought without specific Executive Board approval 250 \$25 cards in November. (Exs. 29, 70) These 250 cards cost \$6,062.50. (Ex. 29) They were solely under his control. (Ex. 5 at 180-181; Ex. 197 at 28-29, 32-34, 38-40) There are no records of their use. (Ex. 197 at 28-29, 32-34, 38-40) Thus in 2009, Flynn caused the Local to expend without authorization over \$12,000 on \$150 and \$25 cards. (Exs. 41 and 29)

³² Bonus checks were not given to the business agents and organizers. (Exs. 86-87; Ex. 197 at 36; Ex. 5 at 194-196) Their wage records did not list any Christmas gift amounts which would be required to be reflected under IRS rules and federal law even if they received gift cards. (Exs. 88-90)

³³ The stewards list the Local produced to the IRB was dated November 24, 2010, the day after the check was issued for the purchase of 500 \$150 gift cards. (Ex. 213) There were 379 stewards on this list. (Ex. 213) One name was crossed off the list. (Ex. 213) The controller indicated 378 gift cards were distributed to stewards in 2010. (Ex. 213)

number of stewards. (Ex. 197 at 30-31) On November 23, 2010, the Local issued a check for \$76,496.95 to Wolfe Rewards & Loyalty. (Ex. 23) The notation on the check voucher stated, "500 Visa cards each valued at \$150.00 eac [sic]" and "Local 710 stewards gifts". (Ex. 23)³⁴ Flynn noted his approval for the payment on the invoice. (Ex. 23) These cards expired after six months. (Ex. 79) The purchase of the extra cards was not authorized by the Board. There was no explanation in the Local's records of the union purpose for the purchase of the 122 cards beyond those needed for steward's gifts, costing \$18,300. The unauthorized cards he caused the Local to purchase went under Flynn's sole control as he knew they would. (Ex. 41; Ex. 5 at 180-181; Ex. 197 at 29-36, 38) There was no Local documentation reflecting either their existence or of Flynn's uses of the cards. (Ex. 197 at 33-36, 38; Ex. 5 at 180-182, 190-192)

Indeed, Flynn had instructed the controller to purchase in 2010 100 more gift cards for stewards than had been purchased the prior year when there was an excess of 48. (Ex. 41; Ex. 197 at 30-33)³⁵ From 2009 to 2010, the number of stewards had only

³⁴ The value of 500 \$150 gift cards was \$75,000. There was a per card fee of \$2.95 totaling \$1,475 and an expedited shipping cost of \$21.95, for a total of \$76,496.95. (Ex. 23)

³⁵ In 2009, the Local purchased 400 \$150 gift cards. (Ex. 22) In 2010, the Local purchased 500 \$150 gift cards. (Ex. 23) After the distribution to stewards in 2009 and the distribution of two cards at the January 2010

increased by 26. (Ex. 213) As of year-end 2010, there should have remained 168 \$150 cards (\$25,200) under Flynn's control. (Ex. 41)

6. 2012 Purchase of \$150 Cards

The minutes for the Executive Board meeting on November 19, 2012 stated, "Brother Flynn made a motion, consistent with past practices, to purchase gift cards for the Stewards at a value of \$150.00". (Ex. 91) The motion was approved. (Ex. 91) Prior to the purchase, the controller would have told Flynn there were 356 stewards as reflected in Local records. (Ex. 213; Ex. 197 at 31)³⁶ Despite that, and the considerable over purchasing in the prior years, Flynn instructed her to buy 400 cards. (Ex. 197 at 28-32; Ex. 24) On November 30, 2012, the Local issued a check for \$61,300 to the Parkway Bank & Trust Company ("Parkway Bank"). (Ex. 24) The notation on the check voucher stated, "400 gift cards for stewards X-Mas gifts". (Ex. 24)³⁷ Flynn approved the payment. (Ex. 24) Parkway Bank was only able to provide

membership meeting, there should have been 46 surplus \$150 cards purchased the previous year in Flynn's possession as there were no records reflecting their use. (Ex. 41)

³⁶ The controller's 2012 stewards list contained 358 names. (Ex. 213) One name was crossed out and "retired" was handwritten next to another name. (Ex. 213) The controller indicated that 356 gift cards were distributed to stewards in 2012. (Ex. 213) As noted above, one steward was omitted from the stewards list and sent a gift card in February 2013. (Ex. 247)

³⁷ The gift cards cost \$60,000.00 and the bank charged a fee of \$1,300.00. (Ex. 24)

Local 710 with 225 \$150 cards which expired on June 30, 2013.

(Exs. 26, 80, 268)³⁸ On December 14, 2012, Local 710 wired \$30,611.95 to the Center State Bank of Florida to purchase 200 \$150 cards which expired after six months. (Exs. 25, 81)³⁹ This brought the total to 425 cards. In sum, Flynn caused the Local to purchase 425 cards under the guise of gifts for stewards when 356 were needed. (Exs. 213, 24-26; Ex. 197 at 30-31) There was no explanation for the purchase of 69 cards (\$10,350) beyond those necessary for stewards' gifts. (Exs. 213, 41)⁴⁰

There was no union purpose noted for Flynn's over \$10,000 unauthorized purchase. As with previous years, Flynn solely possessed and controlled the excess cards. (Ex. 5 at 181-182; Ex. 197 at 29-36, 38; Ex. 6 at 84-85) No record was kept of the value of the cards he controlled or that the Local possessed them. (Ex. 197 at 33-35, 39-40; Ex. 198 at 12, 15-16, 23; Ex. 5 at 180-182, 185-186, 188-190, 192-193, 195-197) They disappeared from Local records into Flynn's hands in which they remained concealed.

In February 2013, a steward who had been left off the list was sent a card. (Ex. 247) Accordingly, there were 68

³⁸ As a result, Parkway Bank refunded Local 710 \$26,818.75. (Ex. 26)

³⁹ This bank's fee was \$611.95. (Ex. 25)

⁴⁰ The notes of a April 22, 2013 Executive Board poll regarding the distribution of \$150 gift cards noted that there were ". . . numerous gift cards left from Steward's Holiday Gifts . . ." (Ex. 92)

unaccounted for cards out of the 2012 purchase. (Ex. 41) Adding these 68 cards to the 168 previously purchased unauthorized \$150 cards that Flynn held, there should have been 236 \$150 cards (\$35,400) in the Local's possession or documents reflecting their use for a union purpose at the end of 2012. No Local records reflected their use or possession. (Ex. 41) Gift cards as assets were not included on the Trustees Reports, the certified financial statements or the Form LM-2. (Exs. 18, 40, 130, 206, 210; Ex. 197 at 39-40)

7. 2013

Local 710 did not purchase any \$150 cards in 2013. (Ex. 93) Rather, as discussed above, the Local purchased steak packages for the stewards as it had in some earlier years. (Exs. 36-37) There were some documented uses of the \$150 cards in 2013.

8. Uses of \$150 Cards Reflected in Local Records

Between 2009 and 2012, Flynn caused the Local to purchase 238 unneeded \$150 cards (\$35,700). (Exs. 214, 22-26, 41, 213, 85, 64, 91) Crediting two cards raffled to members at the January 31, 2010 meeting, 236 cards (\$35,400) that were under Flynn's control were unaccounted for. (Exs. 41, 48)

During the IRB books and records examination at the Local in May 2012 and in later written document requests, the IRB requested the Local produce records regarding gift cards purchased. (Exs. 125-126) In response to requests in June 2013,

August 2013 and September 2013 for records reflecting the use of the gift cards, the Local provided documents showing in 2013 the disposition of 42 cards and the claimed expiration of 4 surplus \$150 cards (\$6,900). (Exs. 211, 1, 2, 3, 127, 201)⁴¹ These documents reflected uses that occurred after the IRB began asking the Local for documents regarding the cards. (Exs. 211, 125, 126-128, 1-3, 201) There were no records for the \$150 cards reflecting any disposition or claimed expiration for the years 2009 through 2012. By letter dated September 5, 2013, the Local advised that it had no \$150 gift cards in the office. (Exs. 2, 4)⁴² The Local failed to account for 190 (236 minus 46) of the \$150 cards (\$28,500) that had been in Flynn's sole possession. (Ex. 41)⁴³

⁴¹ Those should have been reflected in end of year 2012 Local assets. They were not. (Exs. 40, 18, 39, 206, 210)

⁴² The IRB's August 16, 2013 letter requested that the Local produce the following:

3. With respect to all of the \$150 gift cards purchased since January 1, 2007, for each and every \$150 gift card that has not been distributed, copies of each such gift card and any records regarding the date of purchase of such gift cards.

(Ex. 1) In response, Flynn stated "[r]esponsive to Item #3, almost all of the gift cards were either distributed or used prior to there [sic] June 30, 2013 expiration date. The few that we found that had expired have been copied and enclosed". (Ex. 2 & attachments) By letter dated April 11, 2014, Flynn confirmed that as of September 5, 2013, the Local had no \$150 gift cards. (Ex. 4)

⁴³ After the IRB's 2012 requests for documents regarding the gift cards (Exs. 125, 126), the December 16, 2012 general membership meeting minutes recorded that Flynn, "reported that the IRB auditors have found an irregularity in our procedure for passing out gifts to the members at the membership meetings and we are trying to resolve the issue." (Ex. 129) Contrary to Flynn's representation, there were no discussions between the IRB

At the January 24, 2013 Board meeting, a motion was made and carried, "to grant Secretary-Treasurer Pat Flynn the authority to distribute to, or use for, the Membership, surplus items as he deems appropriate, which were previously purchased for specific occasions throughout the year, and approved for by the Executive Board." (Ex. 42)⁴⁴ The resolution did not identify the "surplus items" as gift cards. (Ex. 42)⁴⁵ It acknowledged that the initial purchases of the "surplus items" were for specific purposes only. (Ex. 42) These items were not authorized for any other use which was why Board approval was then needed. (Ex. 42)⁴⁶ There had been no Board approvals for Flynn's intentional acquisition of the now surplus cards that were beyond what was necessary for the initial authorized purposes. (Exs. 70-73) The reason for the surplus and its value was not known to the Executive Board. (Ex. 42) That information was not available in Local records. (Ex. 197 at 35-36, 39-40, 56, 65;

and the Local as to gift cards. (Ex. 253) The IRB had made no finding regarding procedures for distributing gifts to members. His purpose in misleading the members is unclear.

⁴⁴ There should have been some inclusion of the value of surplus gift cards in Local assets in the Local's 2012 Financial Statement, the Form LM-2 and Trustees Reports. (Exs. 13, 18, 40) There was no such inclusion. (Exs. 13, 18, 40, 206, 210; Ex. 197 at 39-40)

⁴⁵ When the Executive Board minutes were read to the members, they would not reflect the value of or even the items involved. (Exs. 42, 168)

⁴⁶ Flynn made intentional purchases of unauthorized \$150 gift cards in 2009, 2010 and 2012 when he purchased more cards than necessary for the distribution to the stewards. (Ex. 41; Ex. 197 at 30-31)

Ex. 5 at 185-188, 192) In contrast to 2013, in prior years Flynn did not seek needed Executive Board approval for the disposition of surplus cards. (Exs. 70-73; Ex. 6 at 85-86, 78-79)⁴⁷

The Local provided documentation for the disposition after the January 2013 Executive Board authorization of 42 of the unauthorized \$150 cards. (Ex. 211) Flynn also claimed that four cards expired unused in 2013. (Exs. 3 and 211)⁴⁸ These 46 have not been included in the total of unaccounted for cards, despite deficiencies in the documentation. These 46 gift cards (\$6,900) which Flynn possessed as of December 31, 2012 were not included in the Local's assets on the Form LM-2, the December Trustees Report or the Local's Financial Statement for 2012. (Exs. 40, 18, 130, 206, 210; Ex. 197 at 39-40) The extras were not reflected in any Local documentation until after the cards were used in 2013.

The Local produced Expense Accounting Forms showing use in 2013 of \$150 cards. (Ex. 2) For example, on March 28, 2013, Flynn and another person ate at The Range Restaurant in North

⁴⁷ Article 13, Section 1(i) of the Local's Bylaws requires Executive Board approval for the disposition of Local property. (Ex. 27 at 9; Ex. 207 at 9)

⁴⁸ During his November 2013 sworn examination, Flynn testified that some of the surplus \$150 cards were raffled off at meetings, some were used to pay for meals for negotiating committee meetings and some of the gift cards were converted into \$50 Shell gas cards. (Ex. 5 at 190-193; Ex. 2) As described below, these uses of the surplus \$150 gift cards that were documented were all after the IRB's inquiries regarding the gift cards. (Ex. 211)

Kansas City. (Ex. 131) The meal cost \$167.68. (Ex. 131) The back of the receipt had Flynn's note, "ABF Natl Nego dinner Ernie Soehl L. U. 701, Pat Flynn". (Ex. 131) Flynn used one \$150 card to partially pay for this. (Ex. 131)

In one day in April 2013, the Local used fourteen cards. (Exs. 132, 134, 135) On April 22, 2013, the Executive Board, in a telephone poll, voted to give three stewards three \$150 cards each to help compensate them for time lost for attending hearings in Texas. (Ex. 92, 132)⁴⁹ The Local provided copies of nine cards given to the stewards. (Ex. 133) No expense accounting forms were provided for these. (Ex. 133)

Also on April 22, 2013, Flynn used one \$150 card at a pizzeria in Mokena to pay for a UPS negotiating committee lunch. (Ex. 134) The lunch cost \$141.29. (Ex. 134) The card balance of \$8.71 was not used. (Ex. 134)⁵⁰ A receipt was submitted for the meal. (Ex. 134)

⁴⁹ According to the minutes, these stewards had driven to Dallas, Texas to attend the YRC hearings on their own time and at their own expense. (Exs. 99, 132, 138) An Executive Board poll memo attached to the March 22, 2013 Executive Board minutes stated: "Each of these stewards missed at least three days of work or more based on their tours of duty. With numerous gift cards left from Steward's Holiday Gifts do you agree to issue three (3) Gift Cards to each of the stewards to help compensate for their time lost". (Exs. 92, 132) This poll was confirmed at the April 25, 2013 Executive Board meeting. (Exs. 132, 138) The records of the Local did not reflect these payments to the stewards. Despite being told numerous cards were left over (Ex. 92), no Board member or Local employee created a record of the remaining cards or recorded the total amount. (Ex. 92; Ex. 197 at 39-40)

⁵⁰ On April 22, 2013, Flynn issued a personal check to the Local for \$8.71 to reimburse the Local. (Ex. 2)

Also on April 22, 2013, Local 710 Vice President Gerald Pauli ("Pauli") used three \$150 cards to pay for a meal at a Mokena restaurant in connection with UPS negotiations. (Ex. 135)⁵¹ The Local produced records reflecting that the meal cost \$472.43 and three \$150 cards were used to pay for it. (Ex. 135)

The next day on April 23, 2013, Pauli used four \$150 cards to pay for a \$580.52 meal in Tinley Park, Illinois. (Ex. 136)⁵² The purpose of this meal was described as UPS rank and file negotiating committee. (Ex. 136) Pauli's expense report contained documents showing four cards were used to pay for it. (Ex. 136) Pauli submitted a check to the Local for \$19.48, the difference between the value of the cards and the expense. (Ex. 136)⁵³

A few days later, on April 26, 2013, one \$150 card was used to pay for a \$121.12 meal in Mokena. (Ex. 137) On the same page with the receipt submitted to the Local was a copy of a \$150 card. (Ex. 137) On this sheet of paper was the notation "E-

⁵¹ The Local provided an itemized bill from the restaurant and a sign-in sheet listing 22 officers and members who were present. The sign-in sheet stated that it was for UPS negotiations. (Ex. 135)

⁵² There was a sign-in sheet with the signatures of fourteen individuals attached to Pauli's expense report. (Ex. 136)

⁵³ Pauli testified Flynn in 2013 gave him some \$150 Visa gift cards to use because the cards were going to be expiring soon. He testified he "was given some cards to use for the rank and file UPS negotiating committee". (Ex. 7 at 66) He stated he used five or six of them on two different occasions for meals. (Ex. 7 at 66) These were the uses.

Board lunch 4/26" (Ex. 137)⁵⁴ A second notation with the receipt stated, "Balance not used". (Ex. 137) The balance was \$28.88. (Ex. 137; Ex. 197 at 50) The records did not reflect as required the individual who submitted the expense report and the union purpose for the Local to pay for the Executive Board's lunch. (Ex. 137)

In a telephone poll conducted on May 16, 2013, the Board voted to use twelve \$150 cards to purchase BBQ grills to be raffled at the May General Membership meeting. (Exs. 139-140) The poll memo noted, "Executive Board Poll being taken by P. Flynn to approve using 12 of the remaining \$150.00 Stewards Christmas Gift Cards which expire June of 2013 to purchase BBQ Grills to be raffled off at the May General Membership Meeting." (Exs. 139-140) The May meeting minutes showed a raffle of twelve grills. (Ex. 141)⁵⁵ The Local's records contained no receipts for the purchase of the grills. (Exs. 1, 2)⁵⁶

⁵⁴ According to the meeting minutes, on April 26, 2013 at 1:45 p.m. the Local started an Executive Board meeting at the Local. (Ex. 138)

⁵⁵ The names of the twenty members who won the twelve BBQ grills and eight sets of sports tickets were listed in the May 19, 2013 General Membership meeting minutes. (Exs. 139, 141)

⁵⁶ By letter dated August 16, 2013, the IRB asked the Local to produce, among other things, the following:

Item 2 "[w]ith respect to all the \$150 gift cards purchased since January 1, 2007, copies of any and all documents reflecting the distribution and use of each such \$150.00 gift card, including, but not limited to, any and all distribution letters; mailing lists; records of receipt; records of donation, including to any charitable organization; records of use, including, but not limited to, use to pay for any Local purchases or expenses; any and all records regarding \$150 gift cards

In response to a May 28, 2014 IRB request for receipts for the grills (Ex. 219), the Local obtained receipts from Ace Hardware for the purchase of twelve grills for \$1,683.45. (Ex. 216) In his letter transmitting these records, Flynn wrote, "The reason that this was not included in my response to your August 16, 2013 request is that I did not have these documents at that time. As I used these gift cards for Union purposes I often had no reason (or so I thought) to submit an expense sheet as no reimbursement was due me. . . ." (Ex. 216)⁵⁷ Flynn a long-time Local executive and International Vice President, who had also been a Joint Council officer and majored in accounting, could not in good faith have thought he did not have to document his use of union funds, including the union purpose. He knew he could not approve union staff spending Local funds without their documenting the transaction, including the amount and explanation of the union purpose. Obviously, Flynn could not

that were not distributed, including all records keeping a tally of the number of gift cards distributed; all records regarding who distributed all such gift cards and all records regarding who had or has custody of all unused gift cards. Please note lists of stewards have already been provided.

(Ex. 1) In response, Flynn stated "In response to Item # 2, all documents that we could find, exclusive of the Stewards lists which you already have is enclosed." (Ex. 2)

⁵⁷ In contrast to this claim, as discussed above, in connection with an April 22, 2013 meal, Flynn submitted an expense sheet when he used a gift card and was due no reimbursement. (Ex. 134)

believe he was exempt from the rules that applied to all other union employees.

According to a Local 710 expense accounting form office manager Catherine Heckla ("Heckla") submitted dated May 23, 2013, Heckla used a \$150 card to make purchases for the Local. (Ex. 142) Heckla testified that Flynn gave her a \$150 card to use for these purchases, which included food. (Ex. 199 at 10-12; Ex. 142) Heckla purchased items for the Local on December 20, 2012 and May 23, 2013, using this card. (Ex. 142; Ex. 199 at 10-15) Flynn took the card, which had a balance on it, back after the initial purchase and then gave it to her for the second purchase. (Ex. 199 at 10, 12) According to receipts she submitted, the items cost \$165.77. (Ex. 142) On May 31, 2013, the Local issued a check to Heckla for \$15.77 to reimburse her for the balance. (Ex. 142)

In response to an IRB document request, in a letter dated September 5, 2013, Flynn indicated that ten \$150 cards had been used to purchase thirty \$50 Shell gas cards. (Ex. 2; Ex. 143; Ex. 5 at 190-191) Flynn testified that a number of the \$150 cards were due to expire in June 2013 so he used ten of them to purchase thirty Shell gasoline cards without expiration dates. (Ex. 5 at 190-191) Flynn purchased these gas cards on the four days from June 27 through June 30, 2013. (Ex. 143) The gift cards were due to expire in June 2013. (Exs. 80-81; Ex. 5 at

190-191) Ten unsigned and undated "expense accounting" forms were submitted to the Local. (Ex. 143) At the top of each form was a handwritten notation of the serial number of one \$150 Visa gift card with the notation "set to expire on June 30 used to purchase 3 - \$50 Shell gift cards to be used for fuel purchases for union vehicles" or a similar notation. (Ex. 143) In the body of each of the ten expense accounting forms were the serial numbers for three Shell cards. (Ex. 143) During his November 2013 IRB sworn examination, Flynn testified, ". . . we now have Shell gasoline cards that we will either use to fill our Union gas tanks or that we will raffle off to the members . . .". (Ex. 5 at 191) The minutes of the membership meetings from January 2013 to February 23, 2014, did not reflect any Shell cards being given to members. (Exs. 144-145) No receipts have been produced to show the use of any of the Shell cards. (Exs. 143, 185, 248-249)⁵⁸ According to the controller and office manager, as of May 22, 2014, the unused gas cards were in the Local's safe, as opposed to the gift cards which Flynn had kept. (Ex. 197 at 29-36, 38, 42, 51-52; Ex. 199 at 23-24; Ex. 5 at 180-182)⁵⁹

⁵⁸ Normally, fuel expenses for Local employees are paid through Local gas credit cards. (Ex. 187)

⁵⁹ Included in the Local's September 5, 2013 response regarding the use of the \$150 cards was an undated page on which Local 710 assistant controller Annette Campos wrote the number of a \$150 card, "Cathy" and "Used for UPS Negotiating Committee Luncheon". (Ex. 237; Ex. 198 at 18-19) There were no receipts documenting the use of this card. (Exs. 237, 220, 250) Heckla, who was the Cathy referred to, testified that anytime she used a gift card, she submitted a receipt to the Local. (Ex. 199 at 14-15) The Local was unable to

Flynn also produced photocopies of four \$150 cards which he represented had expired in the Local's possession. (Exs. 2 and 3) The expiration date on the cards was "06/13". (Ex. 3) The expiration of these gift cards was not mentioned in any Executive Board meeting minutes. (Exs. 73, 144) Nor is it reflected in any Local record. The Local's President testified in November 2013 that he did not know if any gift cards had expired. (Ex. 6 at 86) As of May 22, 2014, the Local's controller was also unaware that any gift cards had expired. (Ex. 197 at 41) Absent the original cards, it cannot be determined when the cards were photocopied and if the cards were used after they were copied.

In sum, subsequent to the IRB's inquiries regarding the gift cards, the Local provided documents reflecting the use between January and June 2013 of 42 previously purchased surplus \$150 cards for various expenditures. (Exs. 1-3, 211) Flynn also represented that four \$150 cards had expired before being used. (Exs. 1-3, 211) These 46 cards were valued at \$6,900. (Ex. 41)⁶⁰

When credited with these, the Local still did not provide any documents showing the disposition of 190 \$150 cards worth

produce any receipt for the use of this card. (Exs. 220, 237, 250) Accordingly, this was not considered a documented use of a gift card for purposes of this report.

⁶⁰ No records reflected the disposition of surplus \$150 cards prior to the IRB inquiries except for two raffled at a January 2010 membership meeting. (Ex. 48)

\$28,500 that were in Flynn's possession and under his exclusive control after the authorized distributions to stewards. (Ex. 41)⁶¹ The unauthorized cards went to Flynn and off the Local's books. (Ex. 197 at 29-36, 38; Ex. 5 at 181-183)

9. Flynn's Undocumented Explanations

a. Flynn's Undocumented Claim That He Gave \$150 Gift Cards Each Year to Local Officers and Staff Is Not Credible

On August 16, 2013 the IRB requested from Local 710, among other things, the following:

2. With respect to all the \$150 gift cards purchased since January 1, 2007, copies of any and all documents reflecting the distribution and use of each such \$150.00 gift card, including, but not limited to, any and all distribution letters; mailing lists; records of receipt; records of donation, including to any charitable organizations; records of use, including, but not limited to, use to pay for any Local purchases or expenses; any and all records regarding \$150 gift cards that were not distributed, including all records keeping a tally of the number of gift cards distributed; all records regarding who distributed all such gift cards and all records

⁶¹ This was calculated as follows: in 2009, the Local purchased 400 \$150 gift cards. The Local stated that each of the 352 stewards received one gift card. This left 48 \$150 cards. In addition, at a General Membership meeting held on January 31, 2010, the Local raffled off two \$150 cards to the members. (Ex. 48) This left 46 cards. In 2010, the Local purchased 500 \$150 cards. The Local stated that each of the 378 stewards received one gift card. This left 122 \$150 cards. The 46 left over from 2009 and the 122 from 2010 totaled 168 cards. In 2012, the Local purchased 425 \$150 cards. The Local stated that each of 357 stewards received one gift card. (Exs. 213, 247) This left 68 \$150 cards. The 168 cards previously left over and the 68 cards made the new total 236. In 2013, the Local gave 9 cards to three stewards who traveled to Texas; the Local used 12 cards to purchase BBQ grills; used 10 cards for meals; gave one card to Heckla; converted 10 cards to thirty \$50.00 gas cards; and let four cards expire without being used. This totaled 46 gift cards accounted for in 2013. (Ex. 211) As a result, the Local could not account for 190 cards (236 less 46). (Ex. 41)

regarding who had or has custody of all unused gift cards. Please note lists of stewards have already been provided.

(Ex. 1) In his September 5, 2013 written response to the IRB's request, Flynn stated, "[i]n response to Item #2, all documents that we could find, exclusive of the Stewards lists which you already have is enclosed". (Ex. 2) One of the documents Flynn provided in response to Item 2 was an undated, unsigned typewritten sheet of paper, copied below, with no supporting documentation:

**\$150.00 Gift Cards
Given 2 each for X-Mas**

2009 40 Given to Staff
Excludes Office
2010 40 Given to Staff
Excludes Office
2011 40 Given to Staff
Excludes Office
2012 40 Given to Staff
Excludes Office

(Exs. 2, 146) During his sworn examination, Flynn defined "staff" in this document as the Local's business agents, organizers and maintenance workers. (Ex. 5 at 195-196) Office clerical workers were excluded from the definition of "staff". (Ex. 5 at 196) Flynn also testified that he believed that the Local's officers were

also excluded from the definition of staff. (Ex. 5 at 196) Flynn testified that the document meant he "might have" transferred that many. (Ex. 5 at 195-197) The Local's President, controller, assistant controller and office manager were each unaware of any such distribution. (Ex. 6 at 85-86; Ex. 197 at 35-39; Ex. 199 at 21-22; Ex. 198 at 14-15) No one at the Local, including Flynn, knew who created the document or when it was created. (Ex. 245; Ex. 197 at 27, 35-38; Ex. 198 at 14-15; Ex. 199 at 20-21) Obviously, at a minimum, Flynn was the source of the information on the document since he alone knew the extent of his claimed giving of cards to employees. (Ex. 197 at 31)

During his November 2013 sworn examination, Flynn claimed that if there were cards remaining after the distribution to the stewards, he gave \$150 cards as a Christmas bonus to the Local's staff which Flynn defined as the Local's business agents, organizers and maintenance workers. (Ex. 5 at 193, 194, 197)⁶² He could not remember in what years he did this. (Ex. 5 at 193-194) If made, these were totally "off the books" transfers of Local assets. According to Flynn, he "might

⁶² The business agents in 2012 would have included his son, Matthew Flynn. (Ex. 5 at 149; Ex. 40)

have given" the Local's business agents two cards each and the organizers three cards each. (Ex. 5 at 197) The unsigned, undated document the Local submitted to the IRB which represented, "Given 2 each for X-Mas" was more definite than his "might have given" testimony. (Ex. 146; Ex. 5 at 197)

During her May 22, 2014 IRB sworn examination, the Local's controller testified that she had never seen the document listing the distribution of 40 cards each Christmas and did not know if any distribution of cards to staff for Christmas gifts had been made. (Ex. 197 at 27, 35-38)⁶³ The assistant controller also had never seen the document and did not know if it was accurate. (Ex. 198 at 14-15) The Local's office manager did not prepare the document. (Ex. 199 at 20-21) She did not know who prepared the document which she testified she received from the controller or the assistant controller. (Ex. 199 at 19, 20-21)

In response to an IRB request to provide a sworn statement about this document (Ex. 246), Flynn claimed that he did not know who created the document or when it was created. (Ex. 245) While acknowledging that the

⁶³ She was on leave when the Local produced the document to the IRB. (Ex. 197 at 38)

Local's controller, Robin Mingilino, did not recall creating the document, Flynn wrote, ". . . I believe that is [sic] was created at some point by Ms. Mingilino. . . ." (Ex. 245) Mingilino testified that she did not create the document and that she was on medical leave in September 2013 when this document was transmitted to the Chief Investigator's office. (Ex. 197 at 38) She also had testified that she had no information about the use of surplus cards once they went into Flynn's possession. (Ex. 197 at 30-38)

In his June 6, 2014 response to the Chief Investigator's request for information regarding this undated document, Flynn provided a list for each year identifying to whom he may have distributed \$150 cards. (Ex. 245)⁶⁴ These lists indicated the alleged distribution of 152 cards (\$22,800), to Local employees including to four Local officers. (Ex. 245)⁶⁵ Flynn described these lists as ". . . our best guess and may not be absolutely accurate." (Ex. 245) Flynn acknowledged that he "had no actual written documents in

⁶⁴ In this document, Flynn claimed to have given between 34 and 40 gift cards to officers and employees each year between 2009 and 2012. (Ex. 245)

⁶⁵ The lists indicated that 38 gift cards were given to officers and staff in 2009, 40 each in 2010 and 2011 and 34 in 2012. (Ex. 245)

file specifically identifying" to whom the gift cards were allegedly distributed. (Exs. 245, 246) The claim of distribution to officers contradicted Flynn's earlier sworn testimony. (Ex. 5 at 194-198)

Moreover, Flynn's alleged distribution of surplus gift cards to some Local officers would have been in violation of the Local's Bylaws. The Bylaws provided that the Executive Board had the authority to provide benefits for officers, business agents and employees. (Ex. 27 at 9; Ex. 207 at 9)⁶⁶ The principal officer had no authority to pass any payments, including these secret payments, out of a slush fund of Local assets he controlled to other officers. Such unauthorized, concealed expenditures would have been an embezzlement.

⁶⁶ Article 13, Section 1(n) of the Local's Bylaws authorizes the Executive Board to:

Provide for pensions, vacations, severance pay and other benefits for officers, Business Agents and employees.

(Ex. 27 at 9; Ex. 207 at 9) Article 15, Section 4 of the Bylaws provides:

The Executive Board may from time to time provide the terms and conditions of employment for officers, employees and representatives of this organization including but not limited to such fringe benefits as vacations with pay, holidays, sick leave, time off for personal leave, and, in connection therewith any disability or sickness, health and welfare, life insurance and retirement benefits and activities, and facilities relating thereto and may from time to time provide changes therein.

(Ex. 27 at 13; Ex. 207 at 13)

Moreover, it was Local practice during the applicable years for the Executive Board to approve Christmas bonuses and gifts to Local employees and others. (Exs. 85, 64, 91) The Executive Board minutes between 2009 and 2012 did not reflect approval for gifts to Local officers as the Bylaws required. (Exs. 70-73; Ex. 27 at 9; Ex. 207 at 10)⁶⁷

Flynn's alleged payments of \$22,800 to Local employees were not recorded in the Local's records, including in the Employee Earnings Summaries and employees' year end pay statements, as the IRS, IBT and DOL rules and regulations required. (Exs. 215, 238-244, 89, 76-78, 40)⁶⁸ No disclosures in Forms LM-2 were made and no necessary tax withholding was taken. (Exs. 215,

⁶⁷ According to the minutes, in 2009, Flynn was given the authority for that year to give Christmas gifts to the Local's non-elected staff and employees. (Ex. 85) In 2010, Flynn was given authority to give Christmas gifts to staff. (Ex. 64) In 2011, Flynn was given authority to give Christmas gifts to non-elected staff. (Ex. 65) The elected officers were excluded from these authorizations.

⁶⁸ The two IBT's Secretary-Treasurer's Manuals in effect during the relevant time period both provided that all payments to officers and employees must be recorded on the Employee's Expense Analysis Journal. (Ex. 96 at 2.2; Ex. 186 at 4.3) The 2012 Secretary-Treasurer's Manual provides that "Cash, property, goods, services or other things of value which were received by or on behalf of an officer or employee, and were essentially for the personal benefit of the individual, and not necessary for conducting union business" must be reported in the Employee Expense Analysis Journal. (Ex. 96 at 77) The alleged distribution of the \$150 gift cards described in Flynn's letter were not reflected on the Employee Expense Analysis Journals for 2009 through 2012. (Exs. 147-150)

40, 76-78, 147-155)⁶⁹ Members would not have known of this additional compensation to Local employees. These alleged payments were not reflected in the individuals' IRS Forms W-2. (Exs. 215, 152-155)⁷⁰ No taxes were withheld as required of cash payments to employees, even through the guise of gifts of gift cards. (Exs. 88, 238-241, 215) IRS rules would have required that gift cards given to employees be recorded as income received. (Exs. 88, 194, 196)

Moreover, given the expiration dates of the cards, it was not possible in 2011 for Flynn to have made the distribution he claimed. (Ex. 83) Given the 46 cards remaining in 2013 (Ex. 211), it was not possible for

⁶⁹ In discussing gift certificates under De Minimus Fringe Benefits, the IRS stated the following:

Cash or cash equivalent items provided by the employer are never excludable from income. . . . Gift certificates that are redeemable for general merchandise or have a cash equivalent value are not de minimis and are taxable.

* * *

If [the de minimis fringe benefits] are taxable, they should be included in wages on Form W-2 and subject to income tax withholding. If the employees are covered for social security and Medicare, the value of the benefits are also subject to withholding for these taxes. You may optionally report any information in box 14 of Form W-2.

(Ex. 88)

⁷⁰ The IRS required that gift cards given to employees be treated as cash payments and consequently they must be included in the employees' wages. (Exs. 194 and 196)

Flynn to have made the claimed distribution for Christmas 2012, even though there would have been sufficient cards available. (Ex. 83) That was in stark contrast to his assertion that he distributed them when he had them. (Ex. 5 at 190-198)

The following analysis evidences this. In 2009, there were 48 surplus \$150 cards. (Ex. 41)⁷¹ If Flynn had given 38 cards to the staff that year as indicated on his June 2014 list (Ex. 245) and as he claimed he would have done if they were available (Ex. 5 at 192-194), only ten \$150 cards would have remained in his possession. (Ex. 83) These \$150 cards expired in December 2012. (Ex. 82) Two of the ten cards were raffled at the January 31, 2010 membership meeting, leaving eight remaining cards. (Ex. 48)

From the purchase in 2010, there were 122 surplus \$150 cards. (Ex. 41) If Flynn had given 40 of these gift cards to Local staff for Christmas as he claimed (Ex. 245), 82 cards (\$12,300) would remain in his possession. (Exs. 41, 83)⁷² These

⁷¹ There was no reservoir of cards from years prior to 2009. Flynn testified that the Local purchased \$150 gift cards in two or three years. (Ex. 5 at 191) The first \$150 gift card purchase in the records obtained from the Local was in 2009. (Ex. 22) As described above, in 2007, 2008 and 2011, the Local purchased steak packages for the stewards. (Exs. 34, 104-110) There were \$150 gift card purchased in 2010 and 2012. (Exs. 23-26)

⁷² These cards were not shown on the Local's Trustees Reports or Financial Statements as an asset. (Exs. 11, 16) The 2010 workpapers for Legacy, the Local's accountants, only mentioned purchase of the \$150 cards for the stewards as a "stewards expense." (Ex. 156) The workpapers did not note that there were any surplus cards under Flynn's control. (Ex. 156)

82 cards expired in May 2011. (Ex. 79) They would not have been available for gifts in 2012. (Ex. 79)

In 2011, the Local did not purchase any \$150 cards. Since the 82 surplus \$150 cards from 2010 expired in May 2011, the only available \$150 cards for Christmas 2011 would have been the eight from 2009. (Exs. 83, 79) Accordingly, Flynn could not have distributed 40 gift cards to Local staff in 2011 for Christmas. (Exs. 83, 245) If you accept Flynn's claimed use, going into 2012, there were no surplus cards. (Exs. 83, 245)

At the end of 2012, after the distribution to the stewards of the cards purchased that year (Ex. 41), there were 68 surplus \$150 cards from the purchase of cards that year under Flynn's control. (Ex. 41) The Local did not purchase any cards in 2013. (Ex. 93) The Local documented the use of 42 cards in 2013 and Flynn also claimed the expiration in 2013 of 4 cards. (Ex. 211) Given the use or claimed expiration in 2013, Flynn would have had these 46 cards going into 2013. (Ex. 211) Accordingly, Flynn could have distributed no more than 22 (68-46) cards to the staff in 2012 for Christmas, despite having had 68 in his possession. (Ex. 5 at 197-198; Exs. 41, 83, 146) This highlights the falsity of Flynn's claim to have distributed

between 34 and 40 gift cards each year when available to staff between 2009 and 2012. (Ex. 245; Ex. 5 at 193-198)⁷³

Four officers had a different tale of Flynn's unauthorized gift giving than Flynn. In his June 6, 2014 response to the Chief investigator's request, Flynn indicated that Local 710 President Sweeney and three other officers probably had received two gift cards each year during the years 2009 through 2012. (Ex. 245)⁷⁴ President Sweeney testified that he had never received a \$150 card. (Ex. 6 at 85-86) Nor was he aware of any others employed at the Local receiving \$150 cards. (Ex. 6 at 85-86) Indeed, Sweeney had no knowledge of what happened to the surplus cards Flynn controlled. (Ex. 6 at 78, 87)

Two Local officers and one former Local officer, who was a Trustee from 2005 through December 2012, each testified that in one year Flynn gave them \$150 cards. (Ex. 7 at 69; Ex. 8 at 47; Ex. 97 at 9, 28, 49) In addition to Flynn's claimed

⁷³ Moreover, even if Flynn, despite the non-existent documentary support and his lack of authorization to do so, was credited with distributing 38 and 40 \$150 gift cards to staff in 2009 and 2010 respectively as well as the eight available cards in 2011 and the 22 available cards in 2012 in violation of the Local Bylaws, IBT, DOL and IRS rules and regulations, there still remained at least 82 (190-108) unaccounted for \$150 gift cards worth \$12,300, that had been under his control. (Ex. 190)

⁷⁴ During his sworn examination, Flynn had testified that officers were excluded from the Christmas distribution described in the undated document he had produced to the Chief Investigator which claimed a distribution of 40 cards each year between 2009 and 2012. (Ex. 5 at 196; Ex. 146)

distribution being contradicted by the testimony of the four officers, there were no Local documents to support his claim. (Ex. 5 at 180-182, 185-186, 188-190, 192-193, 195-197; Ex. 197 at 28-29, 32-36, 38-40, 53-56, 65) Such documents would have been legally required when employee compensation was given. (Exs. 88, 245, 215, 76-78, 157-159, 151)

Charles DeCola ("DeCola"), who was the Local's Recording Secretary in 2011, testified that in December that year, Flynn gave him either six (\$900) or eight (\$1,200) \$150 cards. (Ex. 8 at 47)⁷⁵ There were no Local records recording this alleged transfer from Flynn's possession to an employee. (Exs. 1 and 2; Ex. 197 at 32-36, 38)⁷⁶ DeCola testified that Flynn told him, "I'm not able to give you a raise. You haven't had a raise in a lot of years. I don't have anything to give you, Christmas bonuses, but let me give you a few cards, and he gave us the cards . . . a Christmas bonus". (Ex. 8 at 47)⁷⁷ DeCola testified

⁷⁵ At the November 8, 2011 Executive Board meeting a motion was made and approved to give Flynn the discretion to give a "Christmas bonus or gift to the non-elected staff, office employees, and stewards of Local 710". (Ex. 65) DeCola, as an elected full-time officer and business agent, did not fit into any of these categories. As discussed above, Article 13, Section 1(n) and Article 15, Section 4 of the Bylaws appear to require Executive Board approval for benefits for officers. (Ex. 27 at 9, 13; Ex. 207 at 10, 13)

⁷⁶ Why if Flynn could not pay him from Local funds he could give him cash equivalent gift cards makes no sense other than if Flynn was attempting to conceal the unauthorized payments.

⁷⁷ DeCola testified that he did not know if Flynn gave \$150 Visa gift cards to anyone else. (Ex. 8 at 48-49)

this was the only occasion he remembered receiving cards from Flynn. (Ex. 8 at 49)⁷⁸ Flynn under the Bylaws had no authority to give a raise or bonus to an officer. (Ex. 27 at 13; Ex. 207 at 13) If it did occur, it would have been a concealed unauthorized use of union assets and not a defense to a charge of embezzlement.

No value for cards given to DeCola was included on the statement of what he received from the Local on the Local's Employee Earnings Summary for 2011, the 2011 Form LM-2 or the W-2 issued to him for 2011. (Exs. 159, 151, 78, 215)⁷⁹ There was no record of his receiving any such \$900 to \$1,200 bonus in any Local record. (Exs. 78, 159, 151, 215)

Pauli, who has been a full-time elected officer since 2004, testified that in either December 2009 or 2010, Flynn gave him three gift cards

. . . and he said I can't give you guys raises. I'm sorry. What I recall of the conversation was he handed me the envelope and said here's some cards in it. Use these up. They're going to be expiring soon. I'm sorry I can't give you guys a raise. It has been a couple of years. I know you guys have all agreed, and this is the best I can do.

⁷⁸ DeCola did not know if the transfer of the gift cards to him were recorded anywhere in the Local's records. (Ex. 8 at 48)

⁷⁹ There was no payment of \$900 or \$1,200 listed on DeCola's last pay statement for 2011 or his Employee Earnings Summary for that year. (Ex. 159) The Form LM-2 for 2011, DeCola's Form W-2, his Employee Earnings Summary and his last pay statement for 2011 were identical. (Ex. 151, 159)

(Ex. 7 at 8, 69, 70)⁸⁰ When asked whether the cards Flynn gave him instead of a raise were a bonus, Pauli testified, "I don't know if it was a bonus or if it was a - I don't know how you characterize it. I don't know what you want to call it." (Ex. 7 at 71) The value of cards Pauli claimed he received were not included on his Employee Earnings Summary for 2009 and 2010, his last pay statement for those years, the 2009 or the 2010 Form LM-2 or his 2009 or 2010 IRS Form W-2 or any other Local record. (Exs. 151, 76, 77, 157, 215; Ex. 197 at 21-23, 25-27, 39-40)⁸¹

When Local employees received Christmas bonuses, the amount was included in earnings on the Local's books. (Exs. 151, 160) There was no indication on his year end earnings statements from the Local that Pauli received this money from the Local. (Ex. 157) This alleged payment was outside Local practice, IBT rules, DOL disclosure requirements and IRS obligations.

⁸⁰ At the November 3, 2009 Executive Board meeting a motion was made and approved to give Flynn the discretion to give a "Christmas bonus or gift to the non-elected staff, employees and vendors of Local 710. . ." (Ex. 85) At the October 29, 2010 Executive Board meeting a motion was made and approved to give Flynn the discretion to give a "Christmas bonus or gift to the staff, office employees, stewards and vendors of Local 710". (Ex. 64) Pauli, as a full time elected officer and business agent, did not fit into any of these categories referenced in these minutes. Article 13 Section 1(n) of the Bylaws gave the Executive Board the authority to set benefits for officers and employees. (Ex. 27 at 10; Ex. 207 at 10)

⁸¹ The Forms LM-2 for 2009 and 2010 and Pauli's last pay statements, W-2s and Employee Earnings Summaries for those years were identical. (Exs. 157, 76, 77, 152, 153, 238, 239) Pauli's last pay statements for 2009 and 2010 included a breakdown for salary, commissions and in 2010 included per diem. (Ex. 157) There was no payment for \$300 or \$450 listed on his last pay statements in 2009 and 2010. (Exs. 76-77, 157)

Moreover, Flynn had no authority to give additional compensation to an officer. (Ex. 27 at 13; Ex. 207 at 13) The hidden unauthorized use of Local money would not be a defense to embezzlement, it was an embezzlement.

Anthony Lamy ("Lamy") was a Trustee from 2005 through December 2012. (Ex. 97 at 9)⁸² From 2008 on, he was also a full-time organizer. (Exs. 40, 75-78, 59; Ex. 97 at 8)⁸³ Lamy testified that in either 2010 or 2011, when he was a Trustee, Flynn gave him two \$150 cards at Christmas. (Ex. 97 at 49-50) Lamy testified that he gave one of the cards to a member who had been helping as a steward. (Ex. 97 at 49-50) He kept the other \$150 card. (Ex. 97 at 49-50)⁸⁴ There was no Local record documenting this alleged transfer of Local assets. (Exs. 1, 2, 158)⁸⁵ Flynn would have had no authority to make this payment to

⁸² In 2012, Lamy did not run for the position of Trustee. (Ex. 102)

⁸³ In 2013, Lamy received a salary as an organizer of \$85,416 and a telephone allowance of \$1,500 from the Local. (Ex. 59)

⁸⁴ The Forms LM-2 for 2010 and 2011, his Forms W-2, his Employee Earnings Summaries and his last pay statements for these years were almost identical. (Exs. 158, 77-78) Lamy's last pay statements for 2010 and 2011 included a breakdown for salary, per diem, bonus and the personal use of a union vehicle. (Ex. 158) His last pay statement for 2011 also listed a breakdown for a phone allowance. (Ex. 158) In 2010, Lamy's last pay statement reported total earnings of \$74,927.47. (Ex. 158) The Form LM-2 for 2010 reported Lamy's earnings as \$74,255. (Ex. 77) The difference was \$672.47 which was the amount on Lamy's last pay statement for 2010 for the personal use of a union vehicle. (Ex. 158) In 2011, Lamy's last pay statement reported total earnings of \$77,152.15. (Ex. 158) The Form LM-2 for 2011 reported Lamy's earnings as \$74,869. (Ex. 78) The difference was \$2,283.15 which was the amount on Lamy's last pay statement for 2011 for the personal use of a union vehicle and his telephone allowance. (Ex. 158)

⁸⁵ Lamy testified that he was a steward until 2008 and while a steward he may have received a \$150 gift card in the mail. (Ex. 97 at 48-49, 52) The

an officer. (Ex. 27 at 13; Ex. 207 at 13) It was a concealed unauthorized payment, evidencing, if it occurred, an embezzlement.

Flynn's lists of employees he would have given gift cards to name the four officers as recipients for four years of two \$150 cards. (Ex. 245) None of these four officers testified that they had received two gift cards each year between 2009 and 2012 as Flynn indicated he may have given them. (Ex. 245; Ex. 6 at 85-86; Ex. 8 at 47-49; Ex. 7 at 69-70; Ex. 97 at 49-50)

Flynn asserted he believed that by converting cash to gift cards he escaped all responsibility for documenting how he used Local funds. (Exs. 216, 219) In a June 2, 2014 letter to the Chief Investigator, Flynn claimed that he did not know he had to keep a record of union expenditures, including documenting the union purpose. (Exs. 216, 219) He wrote, ". . . As I used these gift cards for Union purposes I often had no reason (or so I thought) to submit an expense sheet as no reimbursement was due me." (Ex. 216)⁸⁶ Whether it was through an "expense sheet" or otherwise, his expenditures of Local funds, as he knew, needed to be documented.

Local's first purchase of \$150 gift cards for the stewards was for Christmas 2009.

⁸⁶ In 2013, as discussed above, Flynn, in connection with an April 22, 2013 meal, submitted an expense sheet when he used a gift card and was due no reimbursement. (Ex. 134)

That an officer with Flynn's education and experience thought that there was no need to document expenditures of Local funds is not credible. For the \$150 cards, Flynn's intentional and consistent over purchasing of the cards without authorization, his disposal of the cards without required Executive Board approval and his failure to keep records reflecting the cards' existence, are strong evidence of embezzlement. His proffered defense of "possibly" making under the table unauthorized payments each year to officers is contradicted by the evidence. The false assertion is additional evidence of his intent to embezzle.

10. \$25 Gift Cards

Between January 1, 2008 and December 31, 2011, Local 710 spent \$67,162.50 to purchase 2,750 \$25 gift cards. (Ex. 236) The Local represented its records regarding the \$25 gift cards, "show no indication of any expiration dates". (Ex. 161) These cards were good at either of two Chicago area supermarkets or at Walgreen's. (Exs. 28, 29, 32, 33) As of September 5, 2013, the Local claimed it had no \$25 gift cards in its possession. (Ex. 2) Flynn testified that his recordkeeping for the \$25 gift cards was more defective than for the \$150 gift cards, which, was almost non-existent for the unauthorized cards. (Ex. 5 at 192) Flynn stated, "Can I say that the \$150 gift cards do we

have every single solitary gift card recorded, I don't think so, but we have a much better record on the \$150 gift cards than we did on the \$25 gift cards." (Ex. 5 at 192) The Local could not account for 1,193 \$25 gift cards purchased, valued at \$29,825. (Exs. 41, 251) After the IRB investigation began, the Local did not purchase \$25 gift cards in 2012 or 2013. (Exs. 73, 93, 273)

With the exception of the November 2009 purchase for which there was no specific authorization, the Executive Board authorized the purchase of \$25 cards for distribution to the members attending a general membership meeting in the particular year. (Exs. 62, 63, 64) The Local's purchase of \$25 gift cards each year was as follows:

<u>Year</u>	<u># of Cards</u>	<u>Denomination</u>	<u>Cost</u>
2008	400	\$ 25.00	\$ 9,600.00 ⁸⁷
2009	750	\$ 25.00	\$ 18,062.50 ⁸⁸
2010	600	\$ 25.00	\$ 14,500.00 ⁸⁹
2011	<u>1,000</u>	<u>\$ 25.00</u>	<u>\$ 25,000.00</u>
Total	2,750		\$ 67,162.50

⁸⁷ The gift cards were worth \$10,000. The Local received a \$400 discount. (Ex. 28)

⁸⁸ The gift cards were purchased on two occasions in 2009. One purchase, on November 18, 2009, was of 250 \$25 gift cards worth \$6,250. (Ex. 29) The Local received a \$187.50 discount. (Ex. 29) The Executive Board did not specifically approve this purchase. (Ex. 70) The second purchase, on December 15, 2009, was for 500 gift cards for \$12,000. (Ex. 30) The Executive Board approved this purchase of gift cards for distribution at the December 2009 membership meeting. (Ex. 63)

⁸⁹ The gift cards were worth \$15,000. The Local received a \$500 discount. (Exs. 31-32)

(Exs. 28-33)⁹⁰ In 2008 and 2009, cards were purchased from Jewel, a Local 710 employer. (Exs. 28, 29, 30) According to the Local's controller, Flynn approved the invoice for these cards and she prepared the check. (Ex. 197 at 14-15, 52-54, 58-60; Exs. 28-30) The business agent for Jewel delivered a Local check to buy the cards Flynn had decided on and picked up the cards which he delivered directly to Flynn. (Ex. 197 at 53-55)

As with the \$150 gift cards, Flynn consistently bought more \$25 cards than needed for the authorized purpose. He had custody and control of the surplus \$25 gift cards after the distribution at the meetings to members. (Ex. 5 at 180-181; Ex. 100 at 44; Ex. 7 at 63-64; Ex. 8 at 43; Ex. 97 at 46; Ex. 197 at 54-56, 65; Ex. 199 at 22-23, 28; Ex. 198 at 22-23) Flynn admitted that the undistributed \$25 cards went under his control. (Ex. 5 at 180-182, 186) Flynn kept the cards in his office in a safe or in a box and not in the Local's safe. (Ex. 5 at 181-182; Ex. 7 at 60) There was no union purpose recorded for the purchase of the thousands of dollars of unnecessary cards. There were no Local records documenting the number of surplus \$25 cards under Flynn's exclusive control at any time. (Exs. 1-2; Ex. 197 at 56, 65) No records, other than those reflecting raffles of 140 cards at later membership meetings and

⁹⁰ The Local had also purchased \$25 gift cards prior to these years. (Exs. 170-171)

20 cards given to the Local 710 Pioneers Club, showed what Flynn spent the extra \$25 cards on. (Exs. 41, 117-122, 48, 60, 163, 65) No Local records reflected an asset the value of the cards that remained under Flynn's control. (Ex. 197 at 56, 65; Ex. 198 at 12-16; Ex. 5 at 181-182, 185-186, 188, 192)

At a membership meeting each year from 2009 through 2011, \$25 gift cards were distributed to the members present. (Ex. 5 at 178-179; Ex. 6 at 76-79; Ex. 100 at 39-44; Ex. 7 at 59-64) When Local 710 held a membership meeting at which \$25 cards were to be distributed, Flynn gave "stacks" of cards to the business agents to distribute one card to each member as the members left the meeting. (Ex. 5 at 182, 184-185; Ex. 6 at 76-84; Ex. 100 at 39-44; Ex. 7 at 59-64; Ex. 8 at 42-44; Ex. 97 at 46) No records were kept of how many each agent received or to whom the business agents gave the cards. (Ex. 5 at 182-186; Ex. 6 at 76-84) No records were kept of how many were returned to Flynn after the distribution to the attending members. (Ex. 197 at 55-56, 65; Ex. 198 at 22-23)

Trustee Alexander testified that when he distributed gift cards at membership meetings, each member would give him an attendance card for which he would give them a gift card. (Ex. 100 at 42-43) Alexander would give the attendance cards he had collected to either the Vice-President or the Recording Secretary. (Ex. 100 at 39-44)

As of September 5, 2013, Flynn claimed the Local did not have any \$25 gift cards in its possession. (Ex. 2) Based upon authorized use and Local records, as described below, the Local should have had 1,193 \$25 cards (\$29,825) in its possession then or records reflecting their use. (Ex. 41) It had neither.

A chart of the \$25 cards purchased between 2008 and 2011, the number of members who attended the meetings when cards were distributed and the number of cards not distributed that year is below:

<u>Date of Meeting</u>	<u>Number of Members Present</u>	<u>Number of Gift Cards Purchased</u>	<u>Number of Gift Cards Not Distributed</u>
2008	-0- ⁹¹	400	400
12/20/09	391	750 ⁹²	359
11/21/10	408	600	192
11/20/11	<u>598</u>	<u>1,000</u>	<u>402</u>
Totals	1,397	2,750	1,353

(Exs. 236, 28-33, 67, 164, 165, 69, 166, 68, 177) Flynn decided the number of \$25 cards to buy each year. (Ex. 197 at 53-56)

The Local also occasionally raffled \$25 cards at membership meetings as follows:

<u>Date of Meeting</u>	<u>Number of \$25 Gift Cards Raffled</u>
2/20/09	20
3/29/09	20

⁹¹ As discussed below, in 2008, there was no mention in any membership meeting minutes that gift cards were given to members. (Ex. 66)

⁹² In November 2009, Flynn caused the Local to purchase 250 \$25 cards without specific Executive Board approval the Bylaws required. (Exs. 29, 70; Ex. 27 at 8-9; Ex. 207 at 9)

4/26/09	20
1/31/10	20
4/25/10	20
9/26/10	21
2/26/12	9
1/27/13	<u>10</u>
Total	140

(Exs. 117-119, 48, 60, 120-122)⁹³ For each meeting with a raffle, the members who won the cards were listed in the minutes. (Exs. 117-122, 48, 60) In addition, it appears that 20 \$25 cards were given to the Local 710 Pioneers Club in 2009 and 2011. (Exs. 163, 65)

After the raffled cards and donations to the Pioneers Club were deducted, there were 1,193 (1,353-160) unaccounted for \$25 cards (\$29,825). (Ex. 41)⁹⁴

11. 2008 Purchase of \$25 Cards

The October 30, 2008 Executive Board minutes stated, "Trustee Larry Alexander made a motion after much discussion by the Board to purchase turkeys, wine baskets & Jewel gift cards

⁹³ A review of the general membership minutes from January 2008 through February 23, 2014 did not disclose any additional \$25 gift cards being distributed to the members. (Exs. 66, 68, 270-272, 212, 167-168) The minutes occasionally reflected that when a service provider addressed the members, such service providers sometimes handed out gift cards. For example at the October 27, 2013 membership meeting, the minutes reflected that Jim Ridge, an attorney, addressed the members and his firm donated sixteen LLBean gift cards which were raffled to members. (Ex. 169) The Local did not purchase these cards.

⁹⁴ There also appears to have been unaccounted for \$25 gift cards prior to this period. For example, as noted below, there appears to have been 161 unaccounted for gift cards valued at \$4,025 from the purchase of \$25 gift cards in March 2007. (Exs. 170-171)

for the November and December general membership meeting attendees". The motion was approved. (Ex. 62) On October 31, 2008, Local 710 issued a check in the amount of \$9,600 to Jewel-Osco. (Ex. 28) On the check voucher was noted, "For 400 \$25.00 Jewel Gift Cards". (Ex. 28)⁹⁵ Flynn decided how many to buy. (Ex. 197 at 53-55, 62) Flynn noted his written approval of this payment. (Ex. 28) The procedure at the Local was for the cards to go directly into Flynn's possession. (Ex. 197 at 53-55) The Local records did not indicate an expiration date for these cards. (Ex. 161)

The membership minutes for 2008 did not reflect any cards being given to members at either the November or December membership meetings, the reason the Executive Board authorized the purchase. (Exs. 62, 173, 176) These were the only 2008 meetings after the purchase. (Exs. 28 and 62)

It was the Local's consistent practice both prior to and after 2008 to note in the minutes gifts given to members at meetings. (Exs. 173, 270-272) For example, the minutes of the March 25, 2007 meeting stated, "Brother Flynn concluded his report by wishing the membership a happy Easter and informed the members to take one Jewel gift certificate as they leave the

⁹⁵ The invoice from Jewel-Osco indicated that the 400 \$25 gift cards had a total cost of \$10,000. (Ex. 28) The Local received a \$400 discount. (Ex. 28)

hall at the conclusion of the meeting". (Ex. 170)⁹⁶ Pauli was the Recording Secretary in 2007 and 2008. (Exs. 75, 172) The minutes of the December 20, 2009, November 21, 2010 and November 20, 2011 membership meetings noted that members at the meeting would receive gift cards. (Exs. 67, 68, 69)⁹⁷

The minutes for the November and December 2008 membership meetings indicated that gifts other than gift cards were distributed at those meetings to the members. (Ex. 173, 176)⁹⁸ The November minutes stated, "Secretary-Treasurer Pat Flynn then reported that holiday turkeys are available after the meeting for those members attending . . ." (Ex. 176) The December minutes stated, "Secretary-Treasurer Pat Flynn closed his report by informing the membership to redeem their tickets for their holiday wine gift set at the conclusion of the meeting." (Ex. 173)

⁹⁶ On March 22, 2007, Local 710 issued a check in the amount of \$12,000 to Jewel Foods to purchase 480 gift cards. (Ex. 171) Based on the purchase of 480 gift cards at a cost of \$12,000, the Local purchased \$25 gift cards. The notation on the check voucher stated, "Easter Gift Certificates". (Ex. 171) According to the Local, 319 members attended the March 25, 2007 meeting. (Ex. 177) Accordingly, there were 161 unaccounted for \$25 gift cards from this purchase. These 161 gift cards were valued at \$4,025.

⁹⁷ In addition, in 2008, gifts to the members, other than gift cards, were also reported in the minutes of the membership meetings. (Exs. 174, 175)

⁹⁸ According to the Local, there were 570 members at the November 23, 2008 meeting and 9 members at the December 21, 2008 general membership meeting. (Ex. 177) The Local provided sign in cards for these meetings. (Exs. 173, 176) According to the Local's office manager, all sign in cards for the December 21, 2008 membership meeting could not be located. (Ex. 199 at 27)

Consistent with Local practice, if the gift cards had been distributed in 2008, that would have been noted in the minutes as it was in other years. (Exs. 170, 67, 68, 69) Indeed, the Local itself admitted that no minutes reflected cards being given away in 2008. (Exs. 1 and 2)⁹⁹

Flynn acknowledged that he had custody and control over all \$25 gift cards. (Ex. 5 at 180-182, 185-186, 188-190, 192-193, 195-197; Ex. 197 at 28-29, 32-36, 38-40, 53-56, 65) At the end of 2008, the 400 cards purchased that November either remained in Flynn's possession or were used for other than the authorized purpose. There were no Local documents reflecting any use of the cards. (Ex. 197 at 28-29, 32-36, 38-40, 53-56, 65) The cards were not reflected as a Local asset on the December 2008 Trustees Report. (Ex. 197 at 40, 54-56, 65; Ex. 9)

12. 2009 Purchase of \$25 Cards

During membership meetings on February 20, 2009, March 29, 2009 and April 26, 2009, twenty \$25 cards were raffled at each

⁹⁹ In response to an August 16, 2013 request for all documents regarding the distribution or use of the \$25 gift cards, Flynn responded as follows:

all documentation that we could find, exclusive of Union Meeting attendance cards which you have already been copied on is enclosed. Specially find the minutes of March 2007, April 2007, September 2007, November 2007, February 2009, March 2009, April 2009, December 2009, January 2010, April 2010, September 2010, November 2010, November 2011, February 2012, December 2012 and January 2013. In addition there is one request letter from the 710 Pioneers Club dated November 2007 with a follow-up thank you dated December 16, 2007.

(Exs. 1 and 2) He did not reference any 2008 minutes. (Ex. 2)

meeting. (Exs. 117-119) After those raffles, 340 cards were unaccounted for from the 2008 purchase. (Ex. 41)

There was a November 4, 2009 letter from the Local 710 Pioneers Club signed by Nancy Stack requesting the Local to make a donation for the Club's annual Christmas party on December 2, 2009. (Ex. 163) A handwritten note on this letter stated, "Give to Nancy Stack 10 gift cards." (Ex. 163; Ex. 197 at 64-65)¹⁰⁰ In October 2008, the Local's Executive Board had delegated authority to Flynn and Dawes to make donations of \$250 or less "when time is of the essence." (Ex. 62)¹⁰¹ The Executive Board did not approve a larger donation to the Pioneers Club that year. (Ex. 70) Crediting a donation of 10 \$25 gift cards to the Pioneers Club, Flynn had 330 cards (\$8,250) under his control or for which there were no records of any use. (Ex. 41)¹⁰²

On November 18, 2009, the Local issued a check for \$6,062.50 to Jewel Osco. (Ex. 29) The notation on the check voucher stated, "Holiday's 250 \$25.00 Jewel gift cards." (Ex. 29) Flynn approved the payment of the invoice. (Ex. 29) The

¹⁰⁰ The controller testified that Flynn would have given the cards to Nancy Stack. (Ex. 197 at 64-65)

¹⁰¹ At a July 30, 2010 meeting, the Executive Board increased the authorization to \$500. (Ex. 71)

¹⁰² A handwritten December 16, 2007 letter from the Pioneers' Club thanked the Local for the donation of Jewel/Osco gift cards, which were the \$25 cards. (Ex. 178) In addition, in subsequent undated request letters from the Pioneers Club, there was a reference to Jewel/Osco cards which the Local had given in the past. (Ex. 179)

Executive Board minutes for the period from January 1, 2009 through November 30, 2009, did not reflect any specific approval for the purchase of these 250 \$25 cards. (Ex. 70)¹⁰³ Without Board approval, Flynn had no authority to make this purchase. After this purchase was added to the previous surplus of \$25 gift cards, the Local had 580 \$25 cards valued at \$14,500 or the use of which was not documented. (Ex. 41) The Trustees Reports for November and December 2009 did not reflect any gift cards included in the Local assets. (Ex. 10)

Subsequent to the November purchase of 250 \$25 cards, the December 8, 2009 Executive Board minutes stated, "Secretary-Treasurer Pat Flynn made a motion to purchase 500 \$25.00 Jewel gift cards to be issued to the members in attendance at the December 20, 2009 local 710 general membership meeting". The

¹⁰³ The November 3, 2009 Executive Board meeting minutes stated,

Recording Secretary Jerry Pauli made a motion that a payment of a Christmas bonus or gift to the non-elected staff, employees and vendors of Local 710 be left to the discretion of Secretary-Treasurer Pat Flynn to [sic] commensurate with prior years. In addition due to Brother Flynn's position on the IBT General Executive Board he further should be given the discretion to send a Local 710 Holiday gift to the IBT General Executive Board members, IBT employees and departments. Trustee Larry Alexander seconded the motion. The motion carried.

(Ex. 85) In 2009, some Local employees received bonus checks, Local vendors received steak packages and IBT personnel received steak packages and cookies. (Ex. 181) There would have been no Local 710 purpose to subsidize gifts Flynn wanted made to IBT employees and Board members because of his position as an IBT Vice President for which his salary was \$103,793, none of which went to the Local. (Ex. 195) There was no indication that the \$25 cards purchased in November 2009 were used as gifts for non-elected staff, employees and vendors. (Exs. 1, 2, 266, 267)

motion was approved. (Ex. 63) When Flynn made this motion, 580 \$25 gift cards that had previously gone into his possession were unaccounted for, including 250 from the month before. (Ex. 41)

On December 15, 2009, Local 710 issued a check for \$12,000 to Jewel-Osco. (Ex. 30) The Local's practice for the \$25 cards was for Flynn to approve the invoice for the purchase and then the controller prepared the check to pay the invoice. (Ex. 197 at 54-55) On the check voucher was noted, "500 - \$25.00 gift certificates for Dec gen membership mtg". (Ex. 30) After these cards were added to those previously purchased for which there was no documented use, Flynn controlled 1,080 \$25 gift cards (\$27,000). (Ex. 41)

According to the attendance cards, 391 members attended the December 20, 2009 membership meeting. (Exs. 67, 164, 177) The minutes stated, "Secretary-Treasurer Pat Flynn informed the membership in attendance that the Local was giving \$25.00 Jewel gift cards at the conclusion of the meeting". (Ex. 67) If each member who attended the meeting received a \$25 card, after the meeting Flynn controlled 109 additional cards (\$2,725). (Exs. 67, 164, 177) This brought the unused cards to 689 (\$17,225). (Ex. 41) For 2009, no gift cards were reflected as assets on the December Trustees Report, the Form LM-2 or the Local's certified Financial Statements. (Exs. 15, 76, 217, 208, 204; Ex. 197 at 40, 54, 56, 65)

13. 2010 Purchase of \$25 Cards

Twenty \$25 cards were raffled at both the January 31 and April 25, 2010 membership meetings. (Exs. 48, 120) In addition, twenty-one \$25 cards were raffled at the September 2010 general membership meeting. (Ex. 60) Subtracting these 61 raffled cards from the 689 unaccounted for ones, 628 \$25 cards (\$15,700) under Flynn's control remained unaccounted for as of September 26, 2010. (Ex. 41)¹⁰⁴ No cards were reflected as a Local asset on the September 2010 Trustees Report. (Ex. 254)

The minutes of the October 29, 2010 Executive Board meeting stated, "Vice-President Mike Sweeney made a motion to purchase the appropriate gifts for the November 21st, 2010 general membership meeting of \$25.00 gift cards . . .". The motion was approved. (Ex. 64) At this time, when the Board was authorizing an additional purchase, Flynn had under his control 628 unexplained \$25 cards (\$15,700) previously purchased for which no use was documented. (Ex. 41; Ex. 197 at 54-56, 65; Ex. 198 at 22-23)¹⁰⁵

The Local's practice was that when an invoice came to the Local for the \$25 cards, Flynn approved the invoice for payment.

¹⁰⁴ At the same time, Flynn remained in control of 46 \$150 gift cards valued at \$6,900. (Ex. 41)

¹⁰⁵ There were no Local records showing the disposition of any of these cards. They were not included on the statement of the Local's assets on the Trustees Reports. (Ex. 11; Ex. 197 at 39-40, 54-56, 65)

(Ex. 197 at 53-54) Six hundred \$25 cards were purchased from two different sources for distribution at the November meeting. (Exs. 31 and 32)

On November 15, 2010, the Local issued a check for \$5,000 to Central Grocers. (Ex. 31) Flynn approved this payment. (Ex. 31) The notation on the check voucher to Central Grocers stated "(200) \$25.00 Holiday gift cards". (Ex. 31)

On November 17, 2010, the Local issued another check for \$9,500.00 to Jewel-Osco. (Ex. 32) The notation on the check stated "400 - \$25.00 holiday gift cards". (Ex. 32)¹⁰⁶ Flynn approved this payment. (Ex. 32)

On November 21, 2010, the Local held a membership meeting that, according to the attendance cards, 408 members attended. (Exs. 68, 177) The minutes reflected that members were to receive a \$25 gift certificate from either Jewel Food Stores or Central Grocers Stores. (Ex. 68) After the distribution to the 408 attending members, 192 of the 600 purchased in November 2010 remained in Flynn's possession. At that point they disappeared from the Local's records. Adding these to the previous unaccounted for 628 \$25 cards, there were 820 cards (\$20,500) for which possession or use was not reflected in the Local's

¹⁰⁶ The Local received a \$500 discount. (Ex. 32)

records, including as assets on year end reports. (Exs. 41, 68; Ex. 197 at 54-56, 65; Exs. 11, 16, 77, 156, 180)¹⁰⁷

14. 2011 Purchase of \$25 Cards

The minutes of the November 8, 2011 Executive Board meeting stated, "Secretary-Treasurer Pat Flynn made a motion to purchase Jewel/Walgreens gift cards to be given to the members in attendance at the November 2011 general membership meeting, 600 Jewel and 400 Walgreens gift cards". (Ex. 65) Despite all prior years purchases of \$25 cards for members resulting in excess cards, Flynn moved to funnel even more Local money into surplus gift cards that would go to him by buying 400 more than in any previous year for gifts. (Exs. 41 and 65) When Flynn made his motion to purchase 1,000 cards, the largest attendance at a November general membership meeting since 2007 had been 570. (Exs. 165, 177, 182-184)¹⁰⁸ Flynn and the other Board members would have known 1,000 cards far exceeded what was needed for the authorized purpose. (Ex. 177) A probable motive for Flynn's inflated request for at least \$10,000 more than necessary of \$25 cards was Flynn was not receiving extra \$150 gift cards that

¹⁰⁷ Subtracting 408 distributed at the November 21, 2010 membership meeting from the 1,228 in Flynn's possession after the November 17, 2010 purchase the remainder was 820 \$25 cards.

¹⁰⁸ The Local was unable to provide attendance cards for the November 2009 membership meeting. (Ex. 250)

year as he had in 2009 and 2010 because the Local gave the stewards steaks in 2011. (Exs. 34, 109, 110)

The minutes of the November 8, 2011 meeting also reflected approval to donate "Jewel Gift Cards" to the "Local 710 Pioneers Club Christmas Luncheon". (Ex. 65) The motion was approved. (Ex. 65) No number of Jewel gift cards for this donation was reflected in the minutes. (Ex. 65) Accordingly, because in the past ten cards had been donated to the Pioneers Club for a Christmas party, Flynn is credited with donating on behalf of the Local ten \$25 gift cards to the Pioneers Club in November 2011 as he had previously. (Exs. 41, 163)¹⁰⁹

On November 15, 2011, Local 710 issued a check for \$25,000 to St. Alexander Venture for Education that Flynn and Sweeney signed. (Ex. 33)¹¹⁰ Flynn approved the invoice. (Ex. 33)

¹⁰⁹ This was the same number of gift cards donated to the Pioneers Club in November 2009 as reflected in the handwritten notation on the November 4, 2009 donation request letter from the Pioneers Club. (Ex. 163)

¹¹⁰ The cards were purchased through a fund raising effort through St. Alexander's School where Local 710 employee Annette Campos' child attended school. (Ex. 198 at 23-27) Campos testified that she did not receive any financial benefit from the Local's purchase of \$25,000 in gift cards through her child's school. (Ex. 198 at 25-26) The Form LM-2 for Local 710 for 2011 listed Campos as a Local clerk. (Ex. 78) She later became the Local's assistant controller. (Ex. 198 at 7) During her May 2014 sworn examination, Campos testified that she had received a letter from St. Alexander's School stating that she received no financial benefit from the transaction and that such letter was on file at the Local. (Ex. 198 at 25-26) In response to an IRB request for this letter (Ex. 220), the Local produced an undated typewritten statement Campos wrote and signed which stated that she would not receive any credit for "my tuition, commitment fees or any type of donation credit. . . ." (Ex. 218) The statement, which did not include any letterhead, had the signature of a Paula Somers as "Witness". (Ex. 218) Somers was not identified in the document. (Ex. 218) There was no representation from anyone associated with the organization. (Ex. 218) In Flynn's May 30, 2014

Through this institution, the Local purchased 600 \$25 Jewel cards and 400 \$25 Walgreens cards. (Ex. 33)

On November 20, 2011, according to the attendance cards, 598 members attended the meeting. (Exs. 69, 177, 166) The minutes stated, "Secretary-Treasurer Pat Flynn informed the members to turn in their sign in card to receive a \$25.00 Jewel or Walgreens gift card at the conclusion of the meeting". (Ex. 69) After each member who attended received a \$25 gift card, 402 (\$10,050) of the 1,000 cards purchased remained in Flynn's possession without any Local records reflecting that. Combining these remaining cards with those from prior years which were not documented as being in the Local's possession or for which no use was documented, Flynn controlled 1,212 (810 + 402) \$25 gift cards worth \$30,300, whose possession or use were not reflected in Local records. (Exs. 41; Ex. 197 at 39-40, 54-56, 65)¹¹¹ The year end reports did not reflect any gift cards in Local assets. (Exs. 17, 78, 191, 205, 209; Ex. 197 at 39-40, 54-56, 65)

15. 2012 and 2013

transmittal letter, he stated that Somers is the "organization's comptroller." (Ex. 218)

¹¹¹ On the November and December 2011 Trustees Reports, no gift cards were listed as Local assets. (Exs. 191-192; Ex. 197 at 39-40) Each month for the entire year, the Local's petty cash amount reflected on the Trustees Reports was less than \$500. (Ex. 12)

The Local did not purchase \$25 cards in 2012 or 2013. (Ex. 93)¹¹² The minutes reflected that at a general membership meeting on February 26, 2012, the Local raffled nine \$25 cards. (Ex. 121) There was no other record reflecting any use that year. (Exs. 73, 212) No Local record reflected the value of any remaining cards in Flynn's possession. (Ex. 197 at 39-40, 54-56, 65)¹¹³

The minutes of the January 27, 2013 general membership meeting reflected that, "Brother Flynn explained the Auditors concerns for passing out gifts to the members and noted there were ten (10) left over gift cards he would like to pass out". (Ex. 122)¹¹⁴ The motion was seconded and approved. (Ex. 122) The

¹¹² It purchased \$150 gift cards in 2012 and, after the authorized use, \$10,200 worth went into Flynn's sole possession. (Ex. 41)

¹¹³ This was also true of the \$150 gift cards. (Ex. 197 at 28-40)

¹¹⁴ In response to the IRB's August 16, 2013 document request regarding the disposition of the \$25 gift cards, Flynn referenced, among other minutes, the minutes of this January 27, 2013 meeting. (Exs. 1 and 2)

The minutes of the January 24, 2013 Executive Board meeting indicated that there was a Board discussion of "the appropriateness of distributing gifts to the Membership as noted in an IBT audit." (Ex. 42) As with Flynn's statement about the IRB and the cards (Ex. 129), the reference in the January 24, 2013 Executive Board minutes to the IBT auditor was false. The distribution of gift cards was not mentioned in the IBT auditor's report which was completed in September 2012. (Ex. 49) Indeed, the IBT auditor was unaware that the Local had purchased gift cards. (Ex. 95 at 27-30) He did not discuss gift cards with anyone from Local 710. (Ex. 95 at 27-30)

The auditor does a limited audit using sampling. Gift cards were not reflected on the Trustees Reports as required which would have alerted the auditor to the Local's possession of them. (Ex. 197 at 39-40; Exs. 11-12) While the Local's records reflected the purchases of the gift cards, there were no documents reflecting the use of the excess cards after the authorized distribution. (Ex. 197 at 39-40)

names of the ten members who received the \$25 gift cards were noted in the minutes. (Ex. 122) After that distribution, there were 1,193 \$25 cards (\$29,825) that Flynn controlled, not reflected in any Local records. (Ex. 41; Ex. 5 at 181-186; Ex. 197 at 53-54, 65)¹¹⁵

16. Flynn's Undocumented Claims Regarding His Use of \$25 Gift Cards

Flynn admitted that the extra \$25 cards went into his possession after the distribution at membership meetings. (Ex. 5 at 185-186) The Local records did not reflect use or possession of 1,193 (\$29,825) of these \$25 cards. (Ex. 41; Ex. 197 at 28-29, 32-36, 38-40, 53-56, 65; Ex. 5 at 180-182, 185-186, 188-190, 192-193, 195-197) He testified that he gave some of these to charities, some were raffled at membership meetings and others were given to members who were late for meetings. (Ex. 5 at 187-188) He also claimed he gave some \$25 cards to the staff. (Ex. 5 at 193-194; Ex. 6 at 81) Of these explanations, only the cards raffled at membership meetings and the two charitable donations to the Pioneers Club totaling 20 cards, were reflected in Local records showing the transfer of the assets out of Flynn's possession.¹¹⁶

¹¹⁵ No gift cards were reflected as a Local asset on the 2013 Trustees Reports. (Ex. 39; Ex. 197 at 39-40, 54-56, 65)

¹¹⁶ As noted on pages 62-63 and 68 above, the Pioneers Club donations were only partially documented. (Exs. 163, 178-179, 188)

Flynn admitted he failed to record how the cards were used. (Ex. 5 at 188; Ex. 216) Flynn claimed he never asked any charity for a receipt for any donation of gift cards. (Ex. 5 at 188)¹¹⁷ This not only violated federal law and IBT rules but was contrary to Local practice.

For the years 2008 through February 2014, the Local's charitable donations were listed in the Executive Board meeting minutes. (Exs. 70-74, 144, 145) The Executive Board meeting minutes were read at membership meetings. (Exs. 66, 167-168, 270-272, 212) Other than the donation of gift cards to the Pioneers Club in November 2011, no donations made by gift cards were listed in any Board minutes. (Exs. 65, 70-74, 144-145)

By letter dated June 7, 2013, the IRB asked the Local to produce, among other things, "copies of any and all records showing to whom all the gifts to members were distributed during the period from January 1, 2007 to the present, including, but not limited to, the names of all recipients of all gifts listed on the attached Schedules C-J." (Ex. 127) Schedule C attached to this letter was a list of six checks for the purchase of \$25

¹¹⁷ Flynn identified the Local 710 Pioneers Club as the only entity to which he could recall donating \$25 gift cards. (Exs. 1 and 2) As described above, in each of the years 2009 and 2011, there was some evidence that the Local donated 10 \$25 gift cards to the Pioneers Club. (Ex. 179, 65, 163)

gift cards between March 2007 and November 2011. (Ex. 127)¹¹⁸ In response to this request, Flynn provided a notarized affidavit dated June 14, 2013 which stated,

I, Patrick W. Flynn, Secretary Treasurer of Local Union 710 ... state that to the best of my knowledge in [sic] response to the gifts to the members during the period of January 1, 2007 to the present. Copies of the Union membership attendance cards have been provided as you requested. Each member attending those meetings were [sic] given the specific items that were purchased for the meeting at the time. Although we have received the attendees cards for the meeting I cannot guarantee that every member attending those meeting [sic] did in fact turn their card in. I would also include that in addition to the attendees of each meeting, at the request of member's and/or various Local charitable organizations any and all overflow were distributed.

(Ex. 99) The undocumented "overflow" of \$25 cards Flynn said he distributed were Local assets of \$29,825 in the form of 1,193 liquid, untraceable cards solely under his control and which no other officer at the Local, the controller or assistant controller knew how they were used. (Ex. 41; Ex. 197 at 53-56, 59-66; Ex. 198 at 22-23; Ex. 6 at 82-85; Ex. 5 at 180-188; Ex. 8 at 43-50; Ex. 7 at 59-64)

In a subsequent request dated August 16, 2013, the IRB requested the Local to produce, among other things, copies of the following records:

With respect to all the \$25 gift cards purchased since January 1, 2007, copies of any and all documents reflecting the distribution and use of each such \$25 gift card,

¹¹⁸ The date of the purchases of the \$25 gift cards referenced in this letter were on March 22, 2007, October 31, 2008, November 18, 2009, November 15 and 17, 2010 and November 15, 2011. (Ex. 127)

including, but not limited to, any and all distribution letters; mailing lists; records of receipt; records of donation, including to any charitable organization; records of use, including, but not limited to, use to pay for any Local purchases or expenses; any and all records regarding \$25 gift cards that were not distributed, including all records keeping a tally of the number of gift cards distributed; all records regarding who distributed all such gift cards and all records regarding who had or has custody of all unused gift cards. Please note lists of attendees at membership meetings have already been provided.

(Ex. 1)

On September 5, 2013, Flynn responded to this request as follows:

all documentation that we could find, exclusive of Union Meeting attendance cards which you have already been copied on is enclosed. Specially find the minutes of March 2007, April 2007, September 2007, November 2007, February 2009, March 2009, April 2009, December 2009, January 2010, April 2010, September 2010, November 2010, November 2011, February 2012, December 2012 and January 2013. In addition there is one request letter from the 710 Pioneers Club dated November 2007 with a follow-up thank you dated December 16, 2007.

(Ex. 2)

In an affidavit accompanying his letter, Flynn stated, "While I recall a number of thank you notes and cards, I was not able to find any in the files I reviewed." (Ex. 2) There were no Local cover letters transmitting donations of gift cards to charities. The Local had no acknowledgements from the charities receiving any gift cards from the Local as donations in its files.

17. Other Claimed Uses

During his sworn examination, Flynn claimed for the first time that at some point there were between thirty and thirty-five out of work members formerly employed at Yellow and Roadway to whom he gave each a \$25 card. (Ex. 5 at 187) This was not reflected in Local records, including any mention in Executive Board or general membership meeting minutes. (Exs. 66-74, 144-145, 167-168; Exs. 1 and 2) This alleged distribution was not mentioned in Flynn's June 14, 2013 affidavit or his September 5, 2013 response to the IRB's requests regarding the distribution of the \$25 gift cards. (Exs. 2, 127) Moreover, Flynn would have had no authority to give ad hoc payments from Local funds to unemployed Local members he selected.¹¹⁹ Even if believed and credited, the explanation still left 1,158 \$25 cards (\$28,950) in Flynn's possession unaccounted for. (Ex. 190)¹²⁰

¹¹⁹ Article 9, Section 5 of the Local's Bylaws, gives the Secretary-Treasurer the authority, subject to the approval of the Executive Board, to give assistance "monetary or otherwise" to persons the Secretary-Treasurer "may feel are deserving of such aid in the best interest of the labor movement." (Ex. 27 at 4; Ex. 207 at 5) There was no approval in the Executive Board minutes to give gift cards to out of work members from Yellow and Roadway. (Exs. 70-74)

¹²⁰ The Local produced three undated request letters and one dated November 4, 2009 from the Pioneers Club asking the Local for donations and referencing donations of Jewel/Osco gift cards for prior years. (Ex. 179, 188) It appears that these were letters from 2009 through 2012. (Exs. 188, 179) The years 2009 and 2011 are addressed above. For 2010 and 2012, there was no record at the Local that any donation was made, including any acknowledgement letter from the Pioneers' Club such as had been provided in prior years. (Ex. 178) Even if Flynn is credited with donating ten \$25 gift cards to the Pioneers' Club in 2010 and 2012, there were still 1,138 (1,158-20) surplus gift cards in his possession worth \$28,450. (Ex. 190) Some Local officers testified that they received \$25 gift cards at membership meetings when such cards were

Flynn also testified that some \$25 cards were used to purchase meals at restaurants for negotiating committee members and some were given to the office manager to purchase food for membership meetings. (Ex. 5 at 187-188) The Local had no receipts for any such expenses paid for by \$25 cards. (Exs. 220, 218, 1, 2; Ex. 197 at 36, 38-39, 42, 65-66)¹²¹

There were no documented uses of \$25 cards by office manager Heckla. Flynn claimed he gave cards to the office manager to make purchases. (Ex. 218) He wrote, ". . . many of the gift cards used were not documented. I would merely give Ms. Heckla the number of gift cards she needed to make her purchase. Gift cards which were used up would be disposed of. Gift cards which has a balance were held on to an [sic] used up at a later date when they would then be disposed of. . . ." (Ex. 218)

In contrast to Flynn's claim that he had Heckla spend Local money in the form of \$25 cards without documenting the

distributed. (Ex. 6 at 82; Ex. 7 at 61-62; Ex. 8 at 47) Why salaried officers paid to attend meetings would take cards used to motivate members to attend was left unexplained. For the relevant membership meetings at which the Local distributed \$25 gift cards, the Local did not produce any sign in cards for Sweeney, Pauli and DeCola who testified that they had received a \$25 gift card when such cards were distributed at membership meetings. (Ex. 6 at 82; Ex. 7 at 61-62; Ex. 8 at 47; Exs. 164-166, 184) Even if they did receive them, it would not account for 1,129 (1,138 - 9) \$25 gift cards (\$28,225). (Ex. 190)

¹²¹ The Local used \$150 cards for those purposes in 2013 and there were receipts. (Ex. 131, 134-137)

expenditures as required, Heckla testified, "If I was given cards, whatever purchases I had to make at that time, made the purchases and turned the cards and receipts in." (Ex. 199 at 10-18) Heckla testified that she may have received \$25 cards to use for Local purchases, and, if she had, she would have submitted receipts to the Local. (Ex. 199 at 16-18) There was a documented use by Heckla in 2013 of a \$150 card to purchase food. (Ex. 142)

Heckla, who was responsible for petty cash, was well aware that all disbursements of Local funds needed to be supported by receipts. (Ex. 199 at 8-9)¹²² The use of gift cards at a minimum should have had the same documentation for any Local disbursement, including petty cash. (Exs. 96 and 186)¹²³ Flynn, as Secretary Treasurer, despite his protestations to the contrary, at least would have had the same knowledge to document, and have Local employees document, gift card use as the office manager did.

¹²² As discussed above, the Local produced documentation showing that in 2013 the Local used \$150 gift cards to purchase meals and food. Heckla used one of the \$150 gift cards and submitted receipts for her purchases. (Ex. 142) No records were produced showing any \$25 gift cards were used for meals and food. As noted above, by letter dated August 16, 2013, the Local was asked to provide all records regarding the distribution and use of the \$25 gift cards. (Exs. 1 and 2) By letter dated June 2, 2014, Flynn confirmed that the Local had provided all records regarding the use of the gift cards. (Exs. 216, 219)

¹²³ Flynn maintained receipts when he was seeking reimbursement, even for expenses \$20 and under. (Ex. 221) For example, Flynn had receipts for a \$3.28 breakfast and a \$5.00 parking charge on an August 2011 expense report. (Exs. 221, 226)

At the January 24, 2013 Executive Board meeting, the Board gave Flynn the blanket authority with no understanding of the amount involved or description of the Local property covered, ". . . to distribute to, or use for, the Membership, surplus items as he deems appropriate, which were previously purchased for specific occasions throughout the year, and approved for by the Executive Board." (Ex. 42) At the time of the resolution, there were no Local records from which the Board could have learned the number and dollar value of excess cards. (Ex. 197 at 35-40, 53-54, 56, 65)

After the resolution, in 2013, the membership minutes reflected that ten \$25 cards were raffled a few days later at the January 27, 2013 meeting. (Ex. 122) Flynn in those minutes represented these were all the "leftover" \$25 cards there were. (Ex. 122) There was no other documentation showing the use of \$25 cards in 2013. (Ex. 168) In contrast, in 2013, when some \$150 cards were used, the Local had some supporting documents. (Exs. 1 and 2)

Flynn both as Secretary Treasurer and a fiduciary responsible for the members' money knew that he needed to show that all Local money was used for union purposes. His defense that he believed he could use gift cards as a recordless slush fund for whatever purpose he chose as long as he thought it was a union purpose is not credible. Flynn essentially claimed that

since Local funds had been converted into gift cards solely under his control, at that point magically he did not have to account for their use. (Ex. 216) After 21 years as a Local officer, including ten years as the principal officer, as well as years as an International Vice President and Joint Council officer (Ex. 5 at 9-10; Ex. 47), Flynn would have known that how union funds were spent needed to be documented. That was a fundamental part of a union officer's legal and fiduciary responsibilities.

**18. Flynn's Violation of IBT Rules Involving
Local Funds and Assets**

Flynn's years-long complete disregard of basic rules for documenting Local expenditures and reporting of Local assets is strong evidence of his intent to embezzle. Flynn, the Local's Secretary-Treasurer, was not able to account for the disposition of over \$58,000 of union property that had been under his sole control. Most of this he caused the Local to acquire without authorization. He did not comply with the IBT's basic and obvious requirements that all disbursements of Local funds be documented, including the union purpose for the expenditure. As discussed above, Flynn controlled 190 \$150 cards and 1,193 \$25 cards for which neither Flynn nor the Local had records reflecting their distribution or expiration. (Ex. 41) Nor was

their existence during the time he possessed them reflected in any Local record. (Ex. 197 at 35-40, 53-54, 65)

Flynn was an experienced, sophisticated union official who had majored in accounting. He put in receipts for reimbursement on multiple occasions for expenditures of \$20 or less. (Ex. 221) Yet he disposed of over \$58,000 in union assets without documenting what he spent the money for, when it was used, who received it, where the transaction occurred or why it was used.¹²⁴

The IBT has explicit rules for how a Local should keep track of the disbursements of Local assets and cash it has on hand. The April 2012 IBT Secretary Treasurer's Manual stated, "Of primary importance is the requirement that all Affiliates must operate within an environment where a system of internal accounting controls exist and there must be, at all times, strict compliance with those internal accounting controls." (Ex. 96 at iv) The 2012 Manual also provides that Local officers ". . . have a fiduciary responsibility to ensure that funds and property of the Affiliate are properly handled in the best

¹²⁴ For example, Section 15 of the IBT's October 2000 Local Union Financial and Administrative Policies and Procedures Manual stated for meeting and travel expenses, "All expenses must be properly documented. All Officers and employees must turn in a receipt for all such expenses. . . All receipts must be documented with the five W's: who, what, where, why and when." (Ex. 193)

interests of the organization and its members." (Ex. 96 at 127)¹²⁵ That is also federal law. 29 U.S.C. §501.

Article 9, Section 1 of the Local's Bylaws under "Duties of the Secretary-Treasurer" stated the following:

[h]e shall make an annual report to the membership giving the financial standing of the Local, and shall keep itemized records showing the source thereof of all monies receive [sic], and shall keep records, vouchers, worksheets, books and accounts and resolutions to verify the correctness of any such reports.

(Ex. 27 at 4; Ex. 207 at 4)

Pursuant to the 2012 IBT's Secretary-Treasurer's Manual,

. . . at a minimum, all disbursements must be:

Properly authorized through Bylaw action.

Supported by an itemized invoice, receipt or statement detailing the items ordered or the services provided or to be provided.

Substantiated through an indication that the invoiced item was received or that the services were provided.

(Ex. 96 at 73)

These are not complex concepts. Yet, Flynn ignored them in his handling of Local property under his sole control that disappeared from Local records. He hid his use of \$58,325 from

¹²⁵ The previous Secretary-Treasurer's Manual also stated that Local officers have the fiduciary responsibility ". . . to exercise control over the handling, recording and safeguarding of all Local Union property and funds. . ." (Ex. 186)

all eyes. The inference is inescapable that he did not use the cards for an authorized union purpose or else he would not have intentionally made scrutiny impossible. See, United States v. Haggarty, 419 F. 2d 1003, 1005 (7th Cir. 1969) (failure to provide required information allows an inference that official "wished to avoid examination of the transaction.") Flynn's violation of the IBT's Secretary-Treasurer's Manual is evidence of his intent to embezzle.

IBT auditor Pratt, who conducted the last two audits at Local 710 covering the periods from November 2004 to May 2009 and June 2009 to July 2012, testified that gift cards should be treated as petty cash. (Ex. 95 at 29) Pratt testified that when he observed that a Local purchased gift cards, "I do recommend to local unions that if they are going to be giving away gift cards that they have the people sign for them. If they are going to be raffling them off at a union meeting to duly note in the minutes who the gift card was given to." (Ex. 95 at 28-29)¹²⁶

The 2012 Secretary-Treasurer's Manual further provides:

An Affiliate may establish a Petty Cash Fund to pay for routine office expenses where it is not practical to process a check. . . . Whenever a payment is made from the Petty Cash Box, a voucher must be completed for the

¹²⁶ Pratt did not know about the gift cards at Local 710. (Ex. 95 at 29) As noted above, the cards in Flynn's possession were not reflected in any Local document or on any form filed as Local assets, concealing Flynn's possession and use of the cards from the IBT auditor's scrutiny. (Exs. 9-18; Ex. 197 at 39-40; Ex. 198 at 12, 15-16, 23)

amount of the payment and put into the box with supporting documentation attached. . .

UNDER NO CIRCUMSTANCES SHOULD AN OFFICER OR EMPLOYEE BE REIMBURSED FROM PETTY CASH FOR AN EXPENSE ITEM THAT WILL HAVE TO BE ENTERED IN THE EMPLOYEE EXPENSE ANALYSIS JOURNAL.

(Ex. 96 at 164-165) (emphasis in original) Contrary to the requirements of the Secretary-Treasurer's Manual, Flynn did not have documentation for the use of \$58,375 in Local 710 property, some of which he claimed was to make unauthorized payments to Local employees.

In the prior Secretary-Treasurer's Manual in effect from 1978 through April 2012, which the 2012 Manual replaced, the guidelines for petty cash were as follows:

. . . Whenever payment is made from the Petty Cash Box, a voucher must be made out, and, with supporting document attached, put in the box for the amount of the payment.

Any withdrawal from the Petty Cash Box must be supported by a voucher which must state the reason for the withdrawal. This voucher must be signed by the person making the withdrawal. It is advisable to place a limit on the amount which can be withdrawn from petty cash, beyond which, a check should be written.

(Ex. 186 at 4.4)

In the Financial Administrative Policies and Procedures Manual ("Financial Procedures Manual") the IBT issued to Locals in 2000, under cash disbursements the following was noted regarding petty cash: "Petty cash funds are maintained on an

imprest basis with the **same standard of developing documentary evidence as for other disbursements.**" (Ex. 193 (emphasis added))

In general, the Financial Procedures Manual requires that all disbursements of Local funds be "properly substantiated by original supporting documents. Supporting documents included evidence of receipt and approval." (Ex. 193) Whether treated as a cash equivalent or another form of Local property, Flynn studiously avoided documenting his use of the over \$58,000 of gift cards under his sole control.

An inference also should be drawn against Flynn that he failed to keep records of Local expenditures required under federal law because he knew his expenditures were illegal and needed to be concealed. Title 29 U.S.C. §431(b) requires a Local to file an annual form detailing mandated information with the Department of Labor. (Ex. 265) Included in that required information are all Local expenditures and a statement of Local assets. (Ex. 265) Title 29 U.S.C. §436 requires a Local to maintain and keep for five years all records necessary to provide the necessary information for the form. (Ex. 265) Flynn violated the law and failed to keep records of his use of over \$58,000 in gift cards. The inference that he was attempting to conceal that the cards were not used for a union purpose is inescapable. United States v. Haggarty, 419 F.2d at 1008 (deliberately concealing expenditure by falsifying records is

evidence of intent to embezzle). Here, Flynn caused the Local records to be false by omitting information the Local needed to complete accurate Trustees Reports and Forms LM-2.

V. ANALYSIS

A. Embezzlement

The IBT Constitution prohibits embezzlement or conversion of union funds. IBT Const. Art XIX, Section 7(b)(3).¹²⁷ The standard for embezzlement under federal labor law, 29 U.S.C. § 501(c), is instructive in interpreting the IBT Constitutional provisions. Investigations Officer v. Calagna, Decision of the Independent Administrator at 11 (May 9, 1991), aff'd, United States v. IBT, 1991 U.S. Dist. LEXIS 11256 (S.D.N.Y. August 14, 1991). In addition, embezzlement is an act of racketeering all members are enjoined from committing under the Consent Order in United States v. IBT. (Ex. 235; 18 U.S.C. §1961; 29 U.S.C. §501(c)) To find that Flynn embezzled Local 710 property, it must be established that he acted with fraudulent intent to deprive Local 710 of its property. See, United States v. Welch, 728 F.2d 1113, 1118 (8th Cir. 1984) ("... under any test, union officials violate Section 501(c) only when they possess fraudulent intent to deprive the union of its funds");

¹²⁷ The Consent Order expressly enjoins an IBT member from committing an act of racketeering as defined in 18 U.S.C. §1961. Embezzlement of union funds by a union official in violation of 18 U.S.C. §501(c) is an act of racketeering under 18 U.S.C. §1961(a).

Investigations Officer v. Caldwell, Decision of the Independent Administrator at 7 (February 9, 1993), aff'd, 831 F. Supp. 278, 283 (S.D.N.Y. 1993).

Determining whether a union official had the requisite intent to embezzle is done, "on the basis of 'all the evidence considered together' and in light of 'all the surrounding circumstances.'" Welch, supra, 728 F.2d at 1119 (quoting United States v. Morissette, 342 U.S. 246, 275-76 (1951)). "[I]t is permissible to infer from circumstantial evidence the existence of intent." United States v. Local 560, 780 F.2d 267, 284 (3d Cir. 1985) (internal citation omitted) The Court of Appeals for the Second Circuit has stated that key factors in determining the issue of fraudulent intent are whether there was authorization from the union for the expenditure and whether there was a benefit to the union for the payments at issue. See, e.g., United States v. Butler, 954 F.2d 114, 118 (2d Cir. 1992). Neither was present here. Flynn deliberately made his use of the cards unreviewable. See United States v. Stubin, 446 F. 2d 457, 459-60 (3rd Cir. 1971) (concealment of embezzlement through false entries in union books); United States v. Budzanoski, 462 F. 2d 443, 450-452 (3d Cir. 1972), cert. denied, 409 U.S. 949 (1972) (omission of accurate information in union books same as false entry).

Flynn was an experienced, sophisticated union official having been a member of Local 710's Executive Board for 21 years, who had also served on the IBT's General Executive Board for 13 years and also had been a Joint Council officer. (Ex. 5 at 8-10) As the Local's Secretary Treasurer and a union fiduciary, Flynn, despite his claim to the contrary, would have learned in his decades in office that he needed to document all union expenditures.

Evidence establishing Flynn's intent to embezzle was abundant. He caused the purchase of surplus gift cards beyond those necessary for the authorized purposes. (Ex. 197 at 30-31; Ex. 41) Year after year, despite previous surpluses, he continued to cause the Local to purchase substantially more cards than were necessary. (Ex. 41; Ex. 197 at 30-31) The surplus cards came into his sole possession and control, but were not reflected in Local records as Local assets or, if used, as expenditures. (Ex. 197 at 29-36, 38-40; Ex. 5 at 180-182, 185-186, 188, 192; Exs. 9-13, 39) Those cards are gone. (Exs. 1, 2, 4) He failed to document the details of the transfer of the cards out of his possession, including when, the amounts, use and union purpose. Stubin, supra, 446 F.2d at 460-61 (union officer used false entries in records to conceal misappropriation). Flynn disposed of the property without proper Board authorization. From the total lack of records

showing union possession and use of \$58,325 in cards, an inference that they were not used for a union purpose should be drawn.¹²⁸ In United States v. Silverman, 430 F. 2d 106, 117-118 (2d Cir. 1970), the Court found that an adverse inference could be drawn against an officer from the union officer having received Local money, its use was solely within his knowledge and only he could supply the gap in information in union records caused by his actions. It is evident from the evidence Flynn treated the surplus cards as his property. See Noble v. Sombrotto, 525 F.3d 1230, 1236-1237 (D.C. Cir. 2008).

Flynn's intent to embezzle was also shown by his violation of the Local's Bylaws which required Executive Board approval both for the purchase of property and for the disposal of Local property. (Ex. 27 at 8-9; Ex. 207 at 9) United States v. IBT [Wilson, Dickens and Weber], 787 F. Supp. 345, 352 (S.D.N.Y. 1992) ("... failure to comply with [the Bylaws] gives rise to an inference of fraudulent intent."), aff'd, 978 F.2d 68 (2d Cir. 1992). His fraudulent intent was also shown by his failure

¹²⁸ As discussed above, even if Flynn was credited with his claimed distributions of \$150 gift cards each year between 2009 and 2012 to officers and staff for which there was no documentation and no authorization (Exs. 83, 245, 190), giving 35 \$25 gift cards to striking members, giving 20 \$25 gift cards to the Pioneers' Club in 2010 and 2012 and giving officers Sweeney, DeCola, and Pauli one \$25 gift card in the years 2009, 2010 and 2011, there were still \$40,525 in gift cards under his control for which use for a union purpose was not shown. (Exs. 41, 83, 190) Moreover, given the lack of authorization for the claimed concealed payments to officers that would have been an embezzlement in itself.

to comply with the IBT and DOL requirements on record keeping. See United States v. Haggerty, 419 F.2d at 1004-1005 (inference can be drawn from not having documents available for trustees to review transaction). Flynn's intent to embezzle was also shown by his false statements regarding the undocumented distribution of gift cards to Local officers and employees each year between 2009 and 2012. (Ex. 245)

1. Unauthorized Purchases of Cards

In the years 2009, 2010 and 2012, the Board authorized the purchase of gifts for stewards. (Exs. 64, 85, 91) After being told the number of stewards, Flynn instructed the controller how many cards to purchase. (Ex. 197 at 30-31) At Flynn's direction, the Local purchased each year at least 48 \$150 cards beyond the number needed for distribution to the stewards. (Exs. 41, 22-26; Ex. 197 at 30-31) There were no records reflecting the use of these surplus cards before 2013. (Ex. 197 at 32-36, 38-40) In that year, after the IRB inquired about the cards, the use of some cards was documented for January through June. (Exs. 211, 125-126)

In addition, in November 2009 Flynn caused the Local to purchase 250 \$25 gift cards without required specific Executive Board authorization. (Exs. 29, 70) In 2011, Flynn made the motion for the Local to buy 1,000 \$25 gift cards which far exceeded what he and the Board knew was needed for the

authorized purpose of distribution at a membership meeting. (Ex. 65)¹²⁹

All unauthorized purchases of cards were evidence of fraudulent intent to embezzle. United States v. Gray-Burris, 2013 WL 460220 (D.D.C. Feb. 6, 2013) (fraudulent intent shown when officer changed an employee's authorized hourly pay to a yearly salary without disclosure to or authorization by the board); United States v. Hammond, 201 F.3d 346, 349-50 (5th Cir. 1999).

That ". . . the union had disbursed far more funds for purportedly union-related expenses than officers responsible for the payments could account for" was circumstantial evidence of the personal use of union funds. Noble, supra, 525 F.3d at 1237. Flynn did that repeatedly here with the gift cards. In addition, highlighting Flynn's intent to embezzle is that the inflated number of \$150 gift cards he caused the Local to purchase as gifts for stewards was in contrast to the Local's practice when it purchased steak packages for the stewards. No surplus packages were purchased in 2011 and 2013. Flynn

¹²⁹ In 2011, the Local on Flynn's motion purchased 1,000 \$25 gift cards for distribution at the November 2011 membership meeting. (Exs. 65, 33) The highest number of members at a November meeting between 2007 and 2010 had been 570 members in November 2008. (Exs. 177, 165, 182-184) The Local could not produce attendance cards for the November 2009 membership meeting. (Ex. 250) It would have been obvious to Flynn and the other Executive Board members that this was substantially beyond what was needed for the authorized purpose. In 2011, 598 members attended the November 2011 membership meeting resulting in 402 cards (\$10,500) in Flynn's possession but not in the Local's records. (Ex. 166)

deliberately over bought the \$150 cards knowing the surplus would be under his sole control and not reflected in Local records. E.g., Doyle v. United States, 318 F. 2d 419, 424 (8th Cir. 1963) (where Local employee followed procedures when Local received checks that could be tracked but not when it received cash evidenced embezzlement).

Here, Flynn caused the unauthorized purchases of more than necessary to be made repeatedly for several years, maintained sole control of the extra cards with no record of how many were in his possession, did not include the excess cards in lists of Local assets and failed to keep records documenting their use and the union purpose for that use. That cluster of extraordinary conduct by a sophisticated, experienced union official involving a Local's untraceable, liquid assets compels an inference of fraudulent intent to be drawn. See Hammond, 201 F.3d at 349.

2. Flynn's Unauthorized Disposal of Surplus Gift Cards

Further evidence of intent to defraud is that Flynn also violated the Bylaws in connection with the disposal of the surplus cards. Between 2008 and 2012, the Local had 1,383 surplus cards which were Local assets. Article 13, Section 1(i) of the Local's Bylaws required Executive Board approval for the disposal of Local property. (Ex. 27 at 9; Ex. 207 at 9) There was no Executive Board approval for the disposal of the \$58,325

in surplus cards as required. (Ex. 5 at 180-182, 185-188, 192; Ex. 197 at 29-36, 38; Ex. 199 at 22-23, 27-28; Ex. 27 at 9; Ex. 207 at 9; Exs. 70-74, 144) As of September 5, 2013, Flynn represented none of these cards were at the Local. (Exs. 1, 2, 4) As such, their use was an unauthorized conversion of Local property. United States v. Stockton, 788 F. 2d 210, 217-218 (4th Cir. 1986).

After the IRB's investigation began, on January 24, 2013, the Local's Executive Board for the first time gave Flynn the discretionary authority to dispose of surplus Local property remaining in his possession which had not been used for the purpose authorized. (Ex. 42) It did so blindly without noting what the surplus items were or knowing the value of what they were authorizing him to spend. (Ex. 42) The Local had no record of what was in Flynn's possession and its value. (Ex. 42; Ex. 197 at 30-38, 53-56, 65) It created no records then to reflect what property it had authorized him to dispose of on January 24, 2013. (Ex. 42; Ex. 197 at 30-40, 53-56, 65) Unlike when Flynn concealed his uses of the cards for years, after his practices came under scrutiny, the use, distribution or claimed expiration of some surplus \$150 gift cards in 2013 was documented showing that complying with the required IBT record keeping posed no impossible burden on Flynn or other union employees. (Ex. 211)

3. Additional Evidence of Flynn's Intent to Embezzle

Flynn concealed the Local property under his control. The surplus cards from 2012 used in 2013 were not reflected as assets or expenditures required on the Local's LM-2 that Flynn signed under oath. (Exs. 211, 40, 206, 263; Ex. 255 at 15; Ex. 197 at 39-40) For example, as of December 31, 2012, the Local had at least 46 \$150 cards and 10 \$25 cards valued at \$7,150 as shown by the documented use or expiration of these cards in 2013. (Exs. 211, 122)¹³⁰ These gift cards were not reported on the year end Trustees Report or the Form LM-2 filed for 2012 as Local assets. (Exs. 40, 206) Indeed, over the years the surplus cards were never reflected in Local records such as Trustees Reports, Forms LM-2s and certified financial statements. (Ex. 197 at 39-40; Exs. 9-13, 15-18, 39, 75-78, 40, 180, 203-210, 156)

The Form LM-2 requires a Local to report its assets. Different classifications of assets are reported on different schedules. (Ex. 255 at 15) Only two of the asset items, the item for cash (Item 22) and the item for other assets (Item 28 and Schedule 7) were applicable to the Local's ownership of gift cards. (Ex. 255 at 15, 32-33) The Local's accountants were

¹³⁰ On January 27, 2013, the membership meeting minutes reflected that ten \$25 gift cards were raffled to members. (Ex. 122) These minutes were referenced in Flynn's September 5, 2013 response to the IRB's inquiry regarding the disposition of the \$25 gift cards. (Exs. 1 and 2) Accordingly, the Local possessed these ten \$25 gift cards as of December 2012.

Legacy Professionals, LLP ("Legacy"). (Exs. 40, 75-78) The Legacy workpapers for the 2008 through 2012 Form LM-2s the Local approved were reviewed including for Schedule 7 and Item 22. (Exs. 180, 203-206, 257, 259, 261, 263)¹³¹ The amounts listed on those schedules did not include any value for gift cards. (Exs. 180, 203-206, 257, 259, 261, 263)¹³² Indeed, given the absence of Local records reflecting its ownership of the cards or their use (Ex. 197 at 28-29, 32-36, 38-40, 53-56, 65; Ex. 5 at 180-182, 185-186, 188-193, 195-197), it would have been impossible for Legacy to learn that information. The use of cards in 2013 when no cards were purchased proved their existence at year end 2012. (Exs. 83, 211) Consequently, the Local should have disclosed in one or the other item on the 2012 Form LM-2 that it possessed gift cards worth \$7,150.¹³³ That was not disclosed as required. (Exs. 40, 263, 264, 206) Flynn, who possessed the cards, signed the 2012 Form LM-2 representing under oath that,

Each of the undersigned, duly authorized officers of the above labor organization, declares, under penalty of perjury and other applicable penalties of law, that all of

¹³¹ The Local indicated as of September 5, 2013 it had no gift cards in its possession. (Ex. 2)

¹³² This is consistent with the absence of such information in the records the Local maintained. (Ex. 197 at 35-36, 38-40, 54-56)

¹³³ It may have had as many as \$40,275 worth which is the total of the unaccounted for \$150 and \$25 cards that had not expired by December 31, 2012. (Exs. 41, 83, 269) The \$7,150 is the amount of the cards whose use was documented in 2013.

the information submitted in this report (including information contained in any accompanying documents) has been examined by the signatory and is, to the best of the undersigned individual's knowledge and belief, true, correct and complete.

(Ex. 40)¹³⁴ Flynn who had the cards in his possession would have known the surplus cards were not included in Local assets. (Exs. 40, 263, 264) This LM-2 Form was not filed until March 7, 2013 which was after Flynn told the Board about the surplus items in January 2013. (Exs. 40, 42)¹³⁵

The Local also was required to report all disbursements to officers and employees including reimbursed expenses on the Forms LM-2, Schedules 11 and 12. (Ex. 255 at 17, 19-20) With respect to the payments Flynn claimed he made to the officers through gift cards, none of the schedules in the years 2009 through 2012 included any such payment evidencing they were not disclosed in any of the years. (Exs. 180, 203-206) Given the lack of documentation, it could not have.

The Forms LM-2 specifically required the Local to "[r]eport the [Local's] direct and indirect disbursements to all entities

¹³⁴ A review of the accountant's workpapers for the prior 2008 to 2011 years show the Local did not disclose on any of those Form LM-2s any value for the gift cards in Flynn's possession at the end of any year on the Forms LM-2 as required. (Exs. 203-205, 75-78) The surplus cards Flynn possessed were not included in Local assets. This should be expected since Flynn kept no records of what he held and used.

¹³⁵ Given the discussion at the December 2012 membership meeting about gift cards and Flynn's giving \$25 gift cards to members at the January 2013 membership meeting, it appears that the surplus items referred to in the January 2013 Executive Board minutes included gift cards. (Exs. 122, 129)

and individuals during the reporting period associated with contributions, gifts and grants" on Schedule 17. (Ex. 255 at 28) By not keeping records of how he disbursed the cards, Flynn violated federal law. 29 U.S.C. §§431, 436, 439. His deliberate failure to keep required records caused the Forms LM-2 to be false.

Title 29 U.S.C. §436 provides,

Every person required to file any report under [this subchapter] shall maintain records on the matters required to be reported which will provide in sufficient detail the necessary basic information and data from which the documents filed with the Secretary may be verified, explained or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and applicable resolutions, and shall keep such records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

(Ex. 265) This required the Local to have ". . . accurate, contemporaneous records reflecting all union receipts and disbursements. . . ." Budzanoski, supra, 462 F. 2d at 450. The Local and the officers who sign the Forms LM-2 are required under 29 U.S.C. §436 to ensure the Local has records ". . . contemporaneously made with the transactions involved from which the Secretary of Labor as the representative of the public, and the labor organization's members can check to verify and clarify any expenditures made by the labor organization." Hodgson, supra, 1971 WL 705 at *2; United States v. Chittenden, 530 F.2d

41, 42 (5th Cir. 1976) (officer required to sign Form LM-2 is personally responsible for failure to keep required records under 29 U.S.C. §436).

Here, Flynn failed to maintain any records regarding the disposition of \$58,325 in Local gift cards which were under his exclusive control. All expenditures of Local funds must be reported on the Form LM-2s. (Ex. 255 at 15, 32)¹³⁶ Accordingly, Flynn, as the Local's principal officer who signed the Form LM-2s, was required to maintain records of all such disbursements pursuant to 29 U.S.C. §436. (Exs. 40, 75-78, 59, 172, 256, 265, 255) Flynn has sworn to the truth of Forms LM-2 the Local has filed since at least 2001. (Exs. 40, 75-78, 59, 172, 256) He was thoroughly familiar with the Form's requirements. His failure to keep the necessary records and causing the forms to be false supports an inference that he did so to conceal his embezzlement.

That union property under Flynn's control is gone and there were no records to document its disposition is evidence he embezzled. See Stubin, supra, 446 F.2d at 459-460. In Stubin, a Local Secretary Treasurer responsible for keeping Local records

¹³⁶ Pursuant to 29 U.S.C. §431(b), all labor organizations must file annual reports containing, among other things, "assets and liabilities at the beginning and end of the fiscal year", "salary, allowances, and other direct or indirect disbursements (including reimbursed expenses) to each officer and to each employee who . . . received more than \$10,000" and "other disbursements made by it including the purposes thereof." (Ex. 265)

was charged with embezzlement for the amount of money representing the difference between money he received and the lesser amount he deposited. Id. His manipulation of records to conceal this was evidence of embezzlement as were Flynn's deliberate recordkeeping omissions.

4. Flynn's Explanations of Undocumented Use Are Not Credible

Indeed, all of Flynn's self-interested undocumented claims about the use of surplus gift cards allow an inference of guilty knowledge to be drawn against him. Noble, supra, 525 F.3d at 1236-37; United States v. DeFries, 129 F.3d 1293, 1307 (D.C. Cir. 1997). Several of his claims were representations he used cards for specific purposes for which he was unauthorized to do so. For example, he had no authority to distribute \$150 gift cards as Christmas bonuses to Local officers. (Ex. 27 at 8, 13; Ex. 207 at 8, 13; Ex. 245)¹³⁷ Indeed, he had no authority under the Bylaws to distribute cards whose purchase was not authorized.

Furthermore, Flynn's claim in his letter of June 2, 2014 to the Chief Investigator that he believed he was under no obligation to document his use of the gift cards because he was not seeking reimbursement is incredible. (Ex. 216) It is

¹³⁷ Payments to officers and employees required Executive Board approval under the Bylaws. (Ex. 27 at 8, 13; Ex. 207 at 8, 13)

further evidence of his intent to embezzle. Essentially he claimed that he believed if he transformed union funds into gift cards, he was relieved of his obligation to document his expenditures of Local funds. To state it is to show no union officer with Flynn's experience, sophistication and education could in good faith believe that.

B. Breach of Fiduciary Duties

Flynn, the Local's Secretary-Treasurer, was a fiduciary with respect to Local 710 funds and property, 29 U.S.C. §501(a). Stockton, 788 F.2d at 217-218. "The fiduciary role that labor officials must occupy is defined in section 501(a) to include a duty to hold the union's property solely for the benefit of the union and to expend it only in accordance with its constitution, by-laws and resolutions." Silverman, 430 F.2d 106 at 114. The 2012 IBT Secretary Treasurer's Manual reminded IBT Local officials that union officers were fiduciaries with respect to the Local's property. (Ex. 96 at 127) As such, Flynn had an obligation to account for Local property and to ensure it was used for a union purpose. United States v. IBT [Hahs], 652 F. Supp. 2d 447, 453-454 (S.D.N.Y. 2009).¹³⁸

In the Hahs matter, the District Court affirmed that the National President of the BLET breached his fiduciary duties

¹³⁸ If it was not blatantly obvious to anyone in control of another's property, the IBT had rules demanding officers document expenditures of union funds.

when he caused the BLET to purchase sports tickets, maintained control over the tickets and kept no records regarding the use of such tickets. Id. at 453-454. In that case, the Court upheld the finding that Hahs ". . . failed to demonstrate any union purpose for the purchase of the tickets." Id. Here, over several years Flynn caused the Local to purchase surplus gift cards beyond what was needed for the authorized purposes. He maintained sole control over the surplus cards. They were kept in his office and not the Local's safe. They were not reflected in Local records. He studiously avoided documenting the basic information about his use of 1,393 cards. Only after the IRB investigation began, was the use or expiration of some surplus cards documented.

C. Flynn Violated Federal Law on Recordkeeping Requirements Exposing the Local to the Risk of Criminal and Civil Sanctions

As described above, Flynn did not keep any records reflecting his expenditure of over \$58,000 in gift cards the Local possessed. (Ex. 41; Ex. 197 at 28-29, 32-36, 38-40, 53-56, 65; Ex. 5 at 180-182, 185-186, 188-190, 192-193, 195-197) Since he maintained exclusive possession of the cards, he also caused their existence not to be reflected as an asset in Local records or on Forms LM-2. (Ex. 197 at 28-29, 32-36, 38-40, 53-56, 65; Ex. 5 at 180-182, 185-186, 188-190, 192-193, 195-197; Exs. 40,

75-78, 257-264) He violated and caused the Local to violate federal law on a union's obligation to maintain records reflecting its disbursements and assets, 29 U.S.C. §§431(b), 436, 439 and 440. As the Court noted in Budzanoski, supra, 462 F. 2d at 449-450, which involved a conviction for the falsification of union records required to be kept under the LMRDA:

The over-riding purpose of the reporting provisions of the LMRDA is to provide union members with "all the vital information necessary for them to take effective action in regulating affairs of their organization. . . . The Senate Labor Committee declared:

A union treasury should not be managed as the private property of union officers, however well intentioned, but as a fund governed by fiduciary standards appropriate to this type of organization. The members who are the real owners of the money and property of the organization are entitled to a full accounting of all transactions involving their property.

With that information in hand, the members can prevent any questionable practices and if necessary call their leaders to account through the electoral process . . .

The Court also explained the law required a Local to retain,

(1) accurate, contemporaneous records reflecting all union receipts and disbursement; (2) supporting documents reflecting the entry of transactions into the union's accounts and their reproduction in the annual financial statement; and (3) any interim financial records that can serve to check that annual report.

Id. at 450. Interim financial reports of the Local's financial condition, such as Trustees Reports, also need to be maintained. False entries or intentional omissions in those reports are also a violation. Id. at 451-452.

Under federal law, Flynn's failure to maintain required records may result in criminal or civil liability for the Local. 29 U.S.C. §§439, 440. United States v. New York Central and Hudson River Railroad, 212 U.S. 481, 492-96 (1909) (an entity can be liable for the criminal acts of an employee committed within the scope of his employment). Here, it was within the scope of Flynn's employment to have the Local records accurately reflect the disbursement of the Local's funds and its assets.

VI. PROPOSED CHARGES

A. Charge One

While the principal officer and a member of Local 710, you violated the IBT Constitution and breached your fiduciary duties to the Local and its members and brought reproach upon the IBT in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(1)(2) and (3) of the IBT Constitution through embezzling and not accounting for union property disbursed when under your control, to wit:

Between approximately January 2008 and September 2013, while Secretary-Treasurer of Local 710, you embezzled approximately \$58,325 in gift cards from Local 710, as described above. As described in the above report, there were 190 surplus \$150 gift cards and 1,193 surplus \$25 gift cards which were under your sole control that you used without maintaining any records showing the required information for disbursing Local funds. Your omissions allowed you to conceal your possession and use of Local property.

B. Charge Two

While the principal officer and a member of Local 710, you brought reproach upon the IBT, exposed the Local to the risk of civil and criminal penalties and interfered with the Local's legal and recordkeeping obligations under federal law in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(2) and (5) of the IBT Constitution, to wit:

Between approximately January 2008 and March 2014, while Secretary-Treasurer of Local 710 and a required signatory on the Local's Form LM-2s, you failed to maintain records of the disposition of over \$58,000 in Local gift cards in your exclusive possession and control. Such records were required to be maintained pursuant to 29 U.S.C. §431, 436 and 439. Your failure to comply with your record keeping obligations under

federal law exposed the Local to the risk of civil and criminal actions. 29 U.S.C. §§439, 440. You denied the members and the IBT information they were entitled to have access to.

Local 710- Exhibits to the Charge Report regarding Patrick Flynn

Ex.	1	IRB Letter dated August 16, 2013
Ex.	2	Local 710 Letter dated September 5, 2013
Ex.	3	Records regarding claimed expired \$150 gift cards
Ex.	4	Local 710 Letter dated April 11, 2014 including Patrick Flynn's Affidavit dated April 4, 2014
Ex.	5	Sworn Examination of Patrick Flynn dated November 8, 2013
Ex.	6	Sworn Examination of Michael Sweeney dated November 7, 2013
Ex.	7	Sworn Examination of Gerald Pauli dated November 7, 2013
Ex.	8	Sworn Examination of Charles DeCola dated November 7, 2013
Ex.	9	Trustee Reports for 2008
Ex.	10	Trustee Reports for 2009
Ex.	11	Trustee Reports for 2010
Ex.	12	Trustee Reports for 2011
Ex.	13	Trustee Reports for 2012
Ex.	14	Financial Statements for 2008
Ex.	15	Financial Statements for 2009
Ex.	16	Financial Statements for 2010
Ex.	17	Financial Statements for 2011
Ex.	18	Financial Statements for 2012
Ex.	19	2009 Christmas letter to Stewards
Ex.	20	2010 Christmas letter to Stewards
Ex.	21	2012 Christmas letter to Stewards
Ex.	22	Local 710 Check Number 11152 to First American Bank dated November 30, 2009 for \$61,180.00
Ex.	23	Local 710 Check Number 12603 to Wolfe Rewards & Loyalty dated November 23, 2010 for \$76,496.95
Ex.	24	Local 710 Check Number 15452 to Parkway Bank & Trust Company dated November 30, 2012 for \$61,300.00
Ex.	25	Local 710 Debit Memo to Center State Bank of Florida dated December 14, 2012 for \$30,611.95
Ex.	26	Refund Check from Parkway Bank & Trust Company dated December 11, 2012 for \$26,818.75
Ex.	27	Local 710 Bylaws
Ex.	28	Local 710 Check Number 9712 to Jewel-Osco dated October 31, 2008 for \$9,600.00
Ex.	29	Local 710 Check #11149 to Jewel dated November 18, 2009 for \$6,062.50
Ex.	30	Local 710 Check Number 11258 to Jewel-Osco dated December 15, 2009 for \$12,000.00
Ex.	31	Local 710 Check Number 12593 to Central Grocers dated November 15, 2010 for \$5,000.00
Ex.	32	Local 710 Check Number 12599 to Jewel-Osco dated November 17, 2010 for 9,500.00
Ex.	33	Local 710 Check Number 13920 to St. Alexander Venture for Education dated November 15, 2011 for \$25,000.00
Ex.	34	Local 710 Check Number 14158 to Chicago Gourmet Steaks dated January 16, 2012 for \$53,516.40
Ex.	35	Local 710 List of Stewards for 2011
Ex.	36	Local 710 Check Number 17078 to Chicago Gourmet Steaks dated December 30, 2013 for \$54,091.31
Ex.	37	Local 710 Check Number 17132 to Chicago Gourmet Steaks dated January 15, 2014 for \$2,303.47
Ex.	38	Local 710 List of Stewards for 2013

Local 710- Exhibits to the Charge Report regarding Patrick Flynn

Ex.	39	Local 710 Trustees Reports for 2013
Ex.	40	Local 710 Form LM-2 Filed for the 2012 Year
Ex.	41	Schedule of the Purchase and Disposition of \$150 and \$25 gift cards
Ex.	42	Executive Board Minutes for January 24, 2013
Ex.	43	Not used
Ex.	44	Affidavit of Patrick Flynn dated September 5, 2013 and undated document regarding \$150 gift cards
Ex.	45	General Membership Minutes for December 20, 2009
Ex.	46	General Membership Minutes for October 31, 2010
Ex.	47	Local 710 website excerpt
Ex.	48	General Membership Minutes for January 31, 2010
Ex.	49	IBT Audit Covering the Period from June 1, 2009 through July 31, 2012
Ex.	50	Excerpt from Form LM-2 for Joint Council 25 for 2003
Ex.	51	Excerpt from Form LM-2 for Joint Council 25 for 2004
Ex.	52	Excerpt from Form LM-2 for Joint Council 25 for 2005
Ex.	53	Excerpt from Form LM-2 for Joint Council 25 for 2006
Ex.	54	Excerpt from Form LM-2 for Joint Council 25 for 2007
Ex.	55	Excerpt from Form LM-2 for Joint Council 25 for 2008
Ex.	56	Form W-2 for 2013 for Patrick Flynn
Ex.	57	Robin Mingilino's Worksheets for Deferred Commissions for 2012 & 2013
Ex.	58	Last Pay Statement for Patrick Flynn for 2013
Ex.	59	Local 710 Form LM-2 Filed for the 2013 Year
Ex.	60	General Membership Minutes for September 26, 2010
Ex.	61	Dues Record for Patrick Flynn
Ex.	62	Executive Board Meeting Minutes for October 30, 2008
Ex.	63	Executive Board Meeting Minutes for December 8, 2009
Ex.	64	Executive Board Meeting Minutes for October 29, 2010
Ex.	65	Executive Board Meeting Minutes for November 8, 2011
Ex.	66	General Membership Meeting Minutes for 2008
Ex.	67	General Membership Meeting Minutes for December 20, 2009
Ex.	68	General Membership Meeting Minutes for November 21, 2010
Ex.	69	General Membership Meeting Minutes for November 20, 2011
Ex.	70	Executive Board Minutes for 2009
Ex.	71	Executive Board Minutes for 2010
Ex.	72	Executive Board Minutes for 2011
Ex.	73	Executive Board Minutes for 2012
Ex.	74	Executive Board Minutes for 2008
Ex.	75	Local 710 Form LM-2 filed for 2008 Year
Ex.	76	Local 710 Form LM-2 filed for 2009 Year
Ex.	77	Local 710 Form LM-2 filed for 2010 Year
Ex.	78	Local 710 Form LM-2 filed for 2011 Year
Ex.	79	Letter from Wolfe Rewards & Loyalty dated November 23, 2010 Stating the \$76,496.95 \$150 gift cards Purchased November 23, 2010 Expired in 6 Months
Ex.	80	Letter from Parkway Bank dated September 13, 2013 Stating the \$61,300.00 of \$150 gift cards Purchased November 30, 2012 Expired June 30, 2013
Ex.	81	Letter from Center State Bank of Florida dated December 14, 2012 Stating the \$30,611.95 of \$150 gift cards Purchased on December 14, 2012 Expired in 6 months
Ex.	82	Letter from First American Bank dated September 16, 2013 Stating \$150 gift cards Purchased on December 3, 2009 Expired 12/12
Ex.	83	Schedule Regarding Gift Cards Available for Flynn's Claimed Distribution to Employees Based on Expiration Dates of \$150 gift cards
Ex.	84	IBT Constitution Excerpt

Local 710- Exhibits to the Charge Report regarding Patrick Flynn

Ex.	85	Executive Board Meeting Minutes for November 3, 2009
Ex.	86	Schedule of Christmas Bonuses for 2010
Ex.	87	Payroll Item Detail of Christmas Bonus Checks Distributed in 2010
Ex.	88	IRS De Minimis Fringe Benefits Information
Ex.	89	2010 Last Pay Statements for Employees Listed on Form LM-2
Ex.	90	Form W-2's for 2010 Year Issued by Local 710
Ex.	91	Executive Board Meeting Minutes for November 19, 2012
Ex.	92	Executive Board Poll of April 22, 2013 & Executive Board Minutes of March 21, 2013
Ex.	93	Local 710 letter dated January 20, 2014
Ex.	94	Executive Board Meeting Minutes for February 25, 2011
Ex.	95	Sworn Examination of Edward Pratt dated March 4, 2014
Ex.	96	Excerpts from 2012 Secretary Treasurer's Manual
Ex.	97	Sworn Examination of Anthony Lamy dated November 7, 2013
Ex.	98	Schedule Showing Cost of \$150 gift card Purchases
Ex.	99	Local 710 Letter dated June 14, 2013
Ex.	100	Sworn Examination of Larry Alexander date November 7, 2013
Ex.	101	Minutes of the Nomination Meeting of September 13, 2009
Ex.	102	Minutes of the Specially Called Meeting for the Nomination of Officers and Business Agents of Teamster Local 710 dated September 30, 2012
Ex.	103	Sworn Examination of Kevin Wagoner dated November 7, 2013
Ex.	104	Local 710 Check Number 8453 to Chicago Gourmet Steaks dated November 30, 2007 for \$55,153.62
Ex.	105	Local 710 Check Number 8500 to Chicago Gourmet Steaks dated December 10, 2007 for \$3,263.53
Ex.	106	Local 710 Check Number 8513 to Chicago Gourmet Steaks dated December 20, 2007 for \$163.17
Ex.	107	Local 710 Check Number 8831 to Chicago Gourmet Steaks dated March 14, 2008 for \$489.52
Ex.	108	Local 710 Check Number 9968 to Stock Yards Packing dated January 12, 2009 for \$58,181.00
Ex.	109	Local 710 Check Number 11246 to Chicago Gourmet Steaks dated December 15, 2009 for \$2,961.60
Ex.	110	Schedule of Steak Purchases for 2007, 2008, 2011 & 2013
Ex.	111	Local 710 List of Stewards for 2007
Ex.	112	Local 710 List of Stewards for 2008
Ex.	113	Exhibits to Sworn Examinations on November 7th & 8th, 2013
Ex.	114	Executive Board Meeting Minutes for September 18, 2008
Ex.	115	Executive Board Meeting Minutes for September 28, 2007
Ex.	116	Local 710 Letter dated April 2, 2014
Ex.	117	General Membership Meeting Minutes for February 22, 2009
Ex.	118	General Membership Meeting Minutes for March 29, 2009
Ex.	119	General Membership Meeting Minutes for April 26, 2009
Ex.	120	General Membership Meeting Minutes for April 25, 2010
Ex.	121	General Membership Meeting Minutes for February 26, 2012
Ex.	122	General Membership Meeting Minutes for January 27, 2013
Ex.	123	Local 710 Letter dated May 8, 2014
Ex.	124	Executive Board Meeting Minutes for November 22, 2013
Ex.	125	IRB Request for Records dated May 24, 2012
Ex.	126	IRB Letter dated August 10, 2012 to Local 710
Ex.	127	IRB Letter dated June 7, 2013 to Local 710
Ex.	128	IRB Letter dated February 13, 2013
Ex.	129	General Membership Meeting Minutes for December 16, 2012

Local 710- Exhibits to the Charge Report regarding Patrick Flynn

Ex.	130	Local 710 Trustees Report for December 2012
Ex.	131	Local 710 Expense Accounting Form Submitted by Patrick Flynn Re: Meal at The Range Restaurant on March 28, 2013 for \$167.68
Ex.	132	Executive Board Minutes of March 22, 2013 & Local 710 Poll dated April 22, 2013 Re: Giving Three Stewards Nine \$150 gift cards
Ex.	133	Nine Gift Cards Issued to Stewards Re: Texas Trip and Board Poll Approval
Ex.	134	Local 710 Expense Accounting Form Submitted by Patrick Flynn Re: Meal at Beggar's Pizzeria on April 22, 2013 for \$141.29
Ex.	135	Local 710 Expense Accounting Form Submitted by Gerald Pauli Re: Meal at El Cortez Restaurant on April 22, 2013 for \$472.43
Ex.	136	Local 710 Expense Accounting Form Submitted by Gerald Pauli Re: Meal at Gatto's Restaurant on April 23, 2013 for \$580.52
Ex.	137	Receipt from Stoney Point Grill dated April 26, 2013 for \$121.12
Ex.	138	Executive Board Meeting Minutes for April 25-26, 2013
Ex.	139	Executive Board Meeting Minutes for May 23, 2013
Ex.	140	Local 710 Telephone Poll dated May 16, 2013 Re: Purchase of 12 BBQ Grills Using \$150 gift cards
Ex.	141	General Membership Meeting Minutes for May 19, 2013
Ex.	142	Local 710 Expense Accounting Form Submitted by Catherine Heckla Re: charges on December 20, 2012, May 20, 2013 and May 23, 2013 Totaling \$165.77
Ex.	143	Local 710 Expense Accounting Forms Re: Purchase of \$50 Shell gift cards
Ex.	144	Executive Board Meeting Minutes for 2013
Ex.	145	Executive Board Meeting Minutes for January & February 2014
Ex.	146	Local 710 Letter dated September 5, 2013
Ex.	147	2009 Employee Expense Analysis Journal
Ex.	148	2010 Employee Expense Analysis Journal
Ex.	149	2011 Employee Expense Analysis Journal
Ex.	150	2012 Employee Expense Analysis Journal
Ex.	151	Schedules Re: Expense Analysis Journal for 2009 - 2012 Years
Ex.	152	Form W-2's Issued for 2009 Year
Ex.	153	Form W-2's Issued for 2010 Year
Ex.	154	Form W-2's Issued for 2011 Year
Ex.	155	Form W-2's Issued for 2012 Year
Ex.	156	Excerpt from Legacy Workpapers for 2010 Financial Statement
Ex.	157	Gerald Pauli's Year End Pay Statements, W-2's, and Employee Earnings Summary for 2009 & 2010 Years
Ex.	158	Anthony Lamy's Year End Pay Statements, W-2's, and Employee Earnings Summary Journal for 2010 & 2011 Years
Ex.	159	Charles DeCola's Year End Pay Statement, W-2, and Employee Earnings Summary Journal for the 2011 Year
Ex.	160	Year End Pay Statements for 2008 - 2012 for Clerical & Maintenance Staff & Payroll Item Detail with Schedule Summary
Ex.	161	Local 710 Letter dated April 11, 2014
Ex.	162	Not used
Ex.	163	Pioneers Club Letter to Local 710 dated November 4, 2009
Ex.	164	Local 710's Attendance Count for December 20, 2009 General Membership Meeting
Ex.	165	Local 710's Attendance Count for November 21, 2010 General Membership Meeting
Ex.	166	Local 710's Attendance Count for November 20, 2011 General Membership Meeting
Ex.	167	General Membership Minutes for January 26, 2014 and February 23, 2014
Ex.	168	General Membership Minutes for 2013
Ex.	169	General Membership Meeting Minutes for October 27, 2013
Ex.	170	General Membership Meeting Minutes for March 25, 2007

Local 710- Exhibits to the Charge Report regarding Patrick Flynn

Ex.	171	Local 710 Check Number 7510 to Jewel Foods dated March 22, 2007 for \$12,000.00
Ex.	172	Local 710 Form LM-2 filed for 2007 Year
Ex.	173	General Membership Meeting Minutes for December 21, 2008 & Local 710's Attendance Count
Ex.	174	General Membership Meeting Minutes for May 18, 2008
Ex.	175	General Membership Meeting Minutes for October 26, 2008
Ex.	176	General Membership Meeting Minutes for November 23, 2008 & Local 710's Attendance Count
Ex.	177	Local 710 List of Members Who Attended General Membership Meetings between January 28, 2007 and May 20, 2012
Ex.	178	Pioneers Club Thank You Letter to Local 710 dated December 16, 2007
Ex.	179	Pioneers Club Request Letters & Thank You Letters to Local 710
Ex.	180	Legacy Work papers for Local 710 Form LM-2 Filed for 2010 Year
Ex.	181	Locals records regarding Gifts to Vendors, IBT Personnel & Christmas Bonuses 2009
Ex.	182	Local 710's Attendance Count for the General Membership Meeting of November 2007
Ex.	183	Local 710's Attendance Count for the General Membership Meeting of November 2008
Ex.	184	Local 710 Letter dated May 30, 2014
Ex.	185	Local 710 Letter dated May 12, 2014
Ex.	186	Excerpts from old Secretary Treasurer's Manual
Ex.	187	Local 710 Records Re: Local's Use of Fleet Card Services for Gas Expenses
Ex.	188	May 8, 2014 Letter from Flynn and excerpts from attachments
Ex.	189	Not used
Ex.	190	Schedule Regarding Unaccounted for gift cards if Flynn's unsupported claims are credited
Ex.	191	Local 710 Trustees Report for December 2011
Ex.	192	Local 710 Trustees Report for November 2011
Ex.	193	Excerpt from IBT Financial Policies and Procedures Manual
Ex.	194	April 30, 2004 IRS National Office Technical Advice Memorandum
Ex.	195	Excerpt from IBT Form LM-2 filed for 2009
Ex.	196	<u>American Airlines v. U.S.</u> , 204 F.3d 1103 (Fed. Cir. 2000)
Ex.	197	Sworn Examination of Robin Mingilino dated May 22, 2014
Ex.	198	Sworn Examination of Annette Campos dated May 22, 2014
Ex.	199	Sworn Examination of Catherine Heckla dated May 22, 2014
Ex.	200	Exhibits to May 22, 2014 Sworn Examinations
Ex.	201	IRB Letter dated September 10, 2013
Ex.	202	Local 710 Letter dated September 17, 2013
Ex.	203	Excerpt of Legacy Work papers for Local 710 Form LM-2 Filed for 2008
Ex.	204	Excerpt of Legacy Work papers for Local 710 Form LM-2 Filed for 2009
Ex.	205	Excerpt of Legacy Work papers for Local 710 Form LM-2 Filed for 2011
Ex.	206	Excerpt of Legacy Work papers for Local 710 Form LM-2 Filed for 2012
Ex.	207	Local 710 Bylaws from 1996
Ex.	208	Excerpt of Legacy Work papers for Local 710 Financial Statement for 2009
Ex.	209	Excerpt of Legacy Work papers for Local 710 Financial Statement for 2011
Ex.	210	Excerpt of Legacy Work papers for Local 710 Financial Statement for 2012
Ex.	211	Schedule of \$150 gift cards used or claimed to have expired in 2013
Ex.	212	General Membership Meeting Minutes for 2012
Ex.	213	Controller's Records regarding the \$150 gift cards
Ex.	214	Schedule of \$150 gift cards Purchased and Number of Cards Purchased Compared to the Number of Stewards
Ex.	215	Schedule regarding W-2s, LM-2s and Last Pay Statements for Local Employees

Local 710- Exhibits to the Charge Report regarding Patrick Flynn

Ex.	216	Local 710 Letter dated June 2, 2014
Ex.	217	Trustees Report for December 2009
Ex.	218	Local 710 Letter dated May 30, 2014 and excerpts from attachments
Ex.	219	IRB's Letter Dated May 28, 2014 to Local 710
Ex.	220	IRB's Letter Dated May 27, 2014 to Local 710
Ex.	221	Schedule of Patrick Flynn's Expenses Under \$25
		Local 710 Check 12125 dated July 14, 2010 and excerpts from receipts for Flynn
Ex.	222	Reimbursements
Ex.	223	Exhibit Not Used
Ex.	224	Exhibit Not Used
		Local 710 Check 13782 dated October 5, 2011 and excerpts from receipts for Flynn
Ex.	225	Reimbursements
		Local 710 Check 13783 dated October 5, 2011 and excerpts from receipts for Flynn
Ex.	226	Reimbursements
		Local 710 Check 15273 dated October 29, 2012 and excerpts from receipts for Flynn
Ex.	227	Reimbursements
		Local 710 Check 15274 dated October 29, 2012 and excerpts from receipts for Flynn
Ex.	228	Reimbursements
		Local 710 Check 15275 dated October 29, 2012 and excerpts from receipts for Flynn
Ex.	229	Reimbursements
		Local 710 Check 15276 dated October 29, 2012 and excerpts from receipts for Flynn
Ex.	230	Reimbursements
		Local 710 Check 15278 dated October 29, 2012 and excerpts from receipts for Flynn
Ex.	231	Reimbursements
		Local 710 Check 15279 dated October 29, 2012 and excerpts from receipts for Flynn
Ex.	232	Reimbursements
		Local 710 Check 15280 dated October 29, 2012 and excerpts from receipts for Flynn
Ex.	233	Reimbursements
		Local 710 Check 15488 dated December 14, 2012 and excerpts from receipts for Flynn
Ex.	234	Reimbursements
Ex.	235	Consent Order in United States v. IBT dated March 14, 1989
		Schedule Showing \$25 gift cards Purchased and Number Distributed at Designated
Ex.	236	Membership meetings
Ex.	237	Document regarding \$150 gift card Cathy Heckla used with no receipts attached
Ex.	238	Employee Earnings Summaries for January to December 2009
Ex.	239	Employee Earnings Summaries for January to December 2010
Ex.	240	Employee Earnings Summaries for January to December 2011
Ex.	241	Employee Earnings Summaries for January to December 2012
Ex.	242	2009 Year End Payroll Vouchers with Breakdown
Ex.	243	2011 Year End Payroll Vouchers with Breakdown
Ex.	244	2012 Year End Payroll Vouchers with Breakdown
Ex.	245	Local 710 Letter dated June 6, 2014 to the IRB
Ex.	246	IRB letter dated May 27, 2014 to Local 710
Ex.	247	Local 710 Letter dated February 8, 2013 to D. Jones, Member
Ex.	248	IRB letter dated May 7, 2014 to Local 710
Ex.	249	Local 710 Letter dated May 12, 2014 to the IRB
Ex.	250	Local 710 Letter dated May 30, 2014 to the IRB
Ex.	251	Schedule of Percentage of Total Gift Card Value Under Flynn's Control
Ex.	252	Schedule of Summary of \$25 Gift Card Purchases
Ex.	253	Affidavit of Richard J Murray dated June 12, 2014
Ex.	254	Trustees Report for September 2010
Ex.	255	Instructions for Form LM-2

Local 710- Exhibits to the Charge Report regarding Patrick Flynn

Ex.	256	Form LM-2 Excerpts for the Years 2001- 2006, (first page only), filed by Local 710
Ex.	257	Analysis of 2009 Cash Assets Reported on the LM-2
Ex.	258	Analysis of 2009 Cash Assets Reported on the Financial Statements
Ex.	259	Analysis of 2010 Cash Assets Reported on the LM-2
Ex.	260	Analysis of 2010 Cash Assets Reported on the Financial Statements
Ex.	261	Analysis of 2011 Cash Assets Reported on the LM-2
Ex.	262	Analysis of 2011 Cash Assets Reported on the Financial Statements
Ex.	263	Analysis of 2012 Cash Assets Reported on the LM-2
Ex.	264	Analysis of 2012 Cash Assets Reported on the Financial Statements
Ex.	265	29 USC § 431, 436, 439, 440
Ex.	266	General Membership Meeting Minutes for November 2009
Ex.	267	Local 710 Letter dated June 2, 2014 to the IRB
Ex.	268	Calculation of \$150 gift cards Purchased from Parkway Bank in 2012 Schedule Computing Value of Unaccounted for \$150 and \$25 gift cards as of December 31, 2012
Ex.	270	General Membership Meeting Minutes for 2009
Ex.	271	General Membership Meeting Minutes for 2010
Ex.	272	General Membership Meeting Minutes for 2011
Ex.	273	Local 710 Check Register for 2012 Year