

BARBARA HARVEY  
ATTORNEY  
1394 EAST JEFFERSON AVENUE  
DETROIT, MICHIGAN 48207  
(313) 567-4228  
[blmharvey@sbcglobal.net](mailto:blmharvey@sbcglobal.net)

September 16, 2014

Hon. Loretta A. Preska, Chief Judge  
United States District Court for the Southern District of New York  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl St.  
New York, NY 10007-1312

Re: *United States v. Int'l Bhd. of Teamsters*, No. 88 Civ. 4486 (LAP)

Dear Chief Judge Preska:

I write on behalf of Teamsters for a Democratic Union (TDU), in the absence of any further information about the status of the Consent Decree since the IBT's letter of July 17, 2014 (DE # 4374), to explain why TDU vigorously opposes termination of the Consent Decree at this time, as the IBT has requested. TDU reiterates its previously stated request to participate fully in these critically important proceedings.

The continuing viability of the Consent Decree is a matter of the greatest importance to Teamster members, for whom quality of life both within the Union and on the job hangs in the balance. Yet no *party* in this case is able to represent the interests of the Teamster membership, the third-party beneficiaries of the Consent Decree, the people for whom the IBT exists to serve:

- In the event this dispute goes to a hearing, TDU will present specific, detailed evidence showing that the International Union's incumbent and predecessor Hoffa administration officers, when required by circumstances to choose between the welfare of the membership as a whole and their own personal interests, have, with few if any exceptions, sacrificed the interests of the membership to their own interests.
- The IBT leadership under Mr. Hoffa has consistently demonstrated hostility to the direct election of International Union officers -- the Consent Decree's primary remedy for corruption and union representation that has so often fallen below the minimal fair representation standards required under the federal labor laws. They have consistently fought to limit or eliminate the members' right to vote:
  - They have fought to limit or eliminate the Election Rules, which provide the framework for fair and democratic IBT elections. Indeed, the first

International Convention held by the Hoffa administration, in 2001, amended the IBT constitution, article III, section 5(a)(2), to empower the incumbent General Executive Board (GEB) -- all elected on the Hoffa slate -- to write new Election Rules, *themselves*, for the 2006 and later officer elections. This section has not been implemented only because the Consent Decree continues to govern.

- In the absence of a written interpretation to the contrary by the IBT's General President, Article III, section 5(a)(2) of the IBT constitution empowers the GEB to appoint the "independent" election supervisor. *See, e.g., McCuiston v. Hoffa*, 351 F. Supp. 2d 682, 686-87 (E.D. Mich. 2005), *order clarified sub nom. McCuiston v. C.B. Conder*, CIV.04-70047, 2005 WL 2038546 (E.D. Mich. Mar. 21, 2005). The *McCuiston* case involved the validity of a ratification vote affecting ratification of the entire National Master Automobile Transporters Agreement. In that case, an "independent" election supervisor hired by IBT employee, Mr. Hoffa's appointed personal representative, Todd Thompson, who has also been a respondent in many election protests filed under this Consent Decree, erroneously certified the vote as being in favor of ratification, "in the form of the certification letter prepared for his signature by an employee of the IBT, Todd Thompson." The court further elaborated that the "independent" election supervisor "had no personal knowledge of the vote at issue in this case at all—he had not observed the vote at issue, had never seen original or copied ballots on the vote at issue, and had not seen a breakout tabulation of the votes at issue.")

If Article III, section 5(a)(2) of the IBT constitution is ever enforced, it will be the end of independent election supervision in the Teamsters Union.

- Hoffa administrations have repeatedly opposed the five percent threshold on delegate votes needed for nomination as a candidate for IBT office, as too low a bar. There cannot be any doubt that, if empowered to write the Election Rules, the incumbent IBT officers would raise that bar at the earliest opportunity. This single action would likely eliminate contested International Union officer elections, in one clean stroke.

It has repeatedly been shown that slim victory margins in the delegates' votes to qualify candidates for International office has *not* represented the strength of membership support for those candidates, once they attain ballot status. Candidates nominated by seven to eight percent of the delegates have received 35-40 percent of the membership vote. Ron Carey received only 15 percent of the Convention delegate vote in 1991, but his entire slate swept the election by a wide margin: 48.5 percent in a three-way race.

- They have appealed to delegates at IBT conventions to show their “loyalty” to the Union by saving the Union the cost of holding contested elections. That is, they have asked delegates to elect their incumbent candidates for International Union office by acclamation, by refraining from nominating opposition slates or candidates.
- The other component of the Consent Decree involves the Independent Review Board. To create and implement a voluntary IBT alternative to the IRB, the Hoffa administration employed Edwin H. Stier for five years, until 2004, when Stier resigned. He resigned based on his conclusions that the Hoffa administration was not committed to rooting out corruption, but instead obstructed his own investigations and undermined his anti-corruption program -- just as it was focusing in on evidence that the Chicago Outfit remained deeply enmeshed in the Chicago Teamsters local unions. Stier distributed his report on Project RISE to all members of the GEB, hoping some on the GEB would move for reinstatement of the RISE program. None did. Small excerpts of Stier’s report, including some of his detailed evidence of Mob influence on the Chicago Teamsters, appear in the Appendix to this letter, in excerpts from Stier’s report on his Project RISE.<sup>2</sup>

When Stier resigned, Hoffa terminated Stier’s RISE anti-corruption program and systematically dismantled its code of ethics for officers, its ethics office proposal, and its program for finding and ending corruption. In place of Stier’s program, Hoffa has done nothing. He has neither created an IBT anti-corruption program nor addressed any of the concerns expressed by Mr. Stier in his report.

We have no doubt that the Election Rules would be neutered, if not outright eliminated, and that the Election Supervisor’s office and staff, powers, and neutrality would all be crippled by inadequate funding, if the IBT’s incumbent officers were empowered to draft the Election Rules. We similarly have no doubt that the IBT will not create its own alternative independent anti-corruption review and disciplinary machinery, as shown by the record of inaction following Ed Stier’s refusal to sacrifice his personal integrity.

- The U.S. Attorney is proceeding in the best of good faith, but, as an outsider to the Union, lacks the familiarity with the IBT constitution, IBT history, and most importantly, the political dynamics within the IBT which are all essential to effective assessment of what will succeed and what will fail in new Election Rules and what would happen without effective Rules.

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<sup>2</sup> The Appendix has been drawn from this online version of the report: [http://www.ipsn.org/teamsters/stier\\_anderson\\_malone\\_reports.htm](http://www.ipsn.org/teamsters/stier_anderson_malone_reports.htm)

For all of these reasons, we feel that it is imperative that you hear from TDU, as the consistent defender of rank-and-file Teamster members and their right to vote in fair and democratic elections. TDU, as the movement of Teamster members that has been working for nearly 40 years for a more democratic and corruption-free union, is the most credible and authoritative commentator on how to protect the progress made over the course of the Consent Decree's history. It was TDU's proposed remedy that was in large part adopted as the Consent Decree's remedial provisions. Under the Consent Decree, TDU has consistently fought for independently supervised fair and democratic elections and strong Election Rules, without regard for who has held Teamster leadership.

***RECOMMENDATION:***

TDU urges that the Consent Decree remain in force, to provide Teamster members with the tools that prevent the union from backsliding further into corruption and Mob control. In particular, we view it as imperative to preserve the Consent Decree's election provisions, including the guarantees for truly independent election supervision, which have been an effective mechanism in the battle to root out corruption.

The IBT argues that the Consent Decree has served its purpose and should be ended. We agree that the Consent Decree has indeed made significant progress in removing corrupt officers, but that the process is not yet complete and that any weakening of the right-to-vote provisions will undercut that progress and allow corruption to return.

The Consent Decree is a minimally intrusive and low cost mechanism, the very success of which should not be used as an excuse to end it. The LMRDA requires International Union officer elections every five years, with or without the Consent Decree. The element added by the Consent Decree is the Court's correct premise that this Union's history requires granting direct voting rights to the membership in International Union elections, because the members can be trusted, if they know the candidates, to select those who will be honest and resist corruption. Direct voting rights, with fair rules and impartial election supervision, is no more a draconian imposition than direct elections in the public sector. As a measure chosen to remedy corrupt unionism, the mechanism of direct and supervised officer elections is democratic, rather than the indeed highly intrusive and anti-democratic character of a conventional government trusteeship.

The IBT also argues that maintaining the Consent Decree is costly. But its cost is the cost of direct membership elections. The incumbents are comparing the Consent Decree's mandate of direct membership elections with the incumbents' determination to eliminate those elections. This argument betrays that the IBT's actual goal is to eliminate contested elections.

In fact, the cost of direct elections is only a tiny fraction of every member's dues dollar. Teamster members pay about \$800 million in dues each year. The Election Supervisor's entire election budget is approximately \$10 million, or about 1/4 of 1% of membership dues, amortized over the five-year election term. For each dollar a member pays in dues, about 1/4 of a cent goes to provide for the democracy mandated by the consent order. The

cost of the IRB is similarly minimal: less than ½ of 1% of total dues payments by members.

The cost argument, coming from a leadership which pays multiple salaries and multiple pensions to more than 100 union leaders and loyalists, is a hypocritical smokescreen to conceal the real goal, which is to end contested direct elections of IBT officers.

TDU believes that, if allowed to vote on whether to maintain the safeguards of the Consent Decree, including direct IBT officer elections, Teamster members would overwhelmingly favor maintaining the Consent Decree. Yet the incumbent leadership, in its own self-interest, asks the Court to end these democratic elections.

We will send under separate cover some 12,000 signatures of Teamster members who have just signed a petition asking the Court to preserve their election rights under the Consent Decree, either online or on paper.

Respectfully submitted,

s/ Barbara M. Harvey  
Barbara Harvey (P25478)  
Counsel for Teamsters for a Democratic Union

cc: Tara LaMorte, Esq., AUSA, SDNY - [tara.lamorte2@usdoj.gov](mailto:tara.lamorte2@usdoj.gov)  
Jaimie Nawaday, Esq., AUSA, SDNY  
Viet D. Dinh, Esq. - [vdinh@bancroftpllc.com](mailto:vdinh@bancroftpllc.com)  
Paul D. Clement, Esq. - [pclement@bancroftpllc.com](mailto:pclement@bancroftpllc.com)  
Bradley T. Raymond, Esq., IBT General Counsel - [braymond@teamster.org](mailto:braymond@teamster.org)  
Edwin Stier, Esq. - [ehstier@aol.com](mailto:ehstier@aol.com)

### **CERTIFICATE OF SERVICE**

Barbara Harvey, counsel for *amicus curiae* Teamsters for a Democratic Union, certify that on September 16, 2014, a copy of the foregoing document was filed electronically and served by mail to anyone unable to accept electronic filing. Notice of electronic filing will be sent to email to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing, as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF system.

s/ Barbara M. Harvey

Dated: September 15, 2014