

MEMORANDUM

TO: Sean O'Brien, General President, International Brotherhood of Teamsters
FROM: Timothy S. Hillman, Independent Investigations Officer
DATE: June 2, 2026
RE: Proposed Charges Against L-326 President/Principal Officer Joseph W. Smith, Jr.

I. RECOMMENDATION

The Independent Investigation Officer (IIO) refers this report to the IBT General President with the recommendation that charges outlined herein be adopted and filed against Local 326 Member and Principal Officer Joseph W. Smith, Jr. ("Smith") for his actions as outlined in detail in Section III (A) (1) and (B)(1).

As set forth herein, Smith made materially false statements under oath to IIO investigators during two separate examinations regarding his conviction for driving under the influence; and he did so with the intention of misleading, frustrating, and otherwise impeding the IIO's investigation into the circumstances surrounding Smith's unreported conviction for driving while under the influence and his driving of a vehicle for union business without a valid license for a decade thereafter. As a result, he failed to cooperate with the independent disciplinary process of the Final Order and the IBT Constitution by providing material evidence under oath that he knew to be false, thereby bringing reproach upon the IBT and violating his oath as a member and officer. See IBT Const. Art. II, Section 2(a); Art. XIX, Sections 7(b)(2), (5) and 14(a).¹

Additionally, Smith brought reproach upon the IBT and breached his fiduciary duties when he (1) failed to advise Local 326 and the IBT that he had, in fact, been arrested and convicted of driving while under the influence in Arizona in 2014; (2) continued to drive without a valid license for approximately 10 years; (3) improperly obtained Local funds as a car allowance to pay for his illegal driving and auto insurance expenses at a time when he did not have a valid license to drive; (4) exposed the Local to a substantial uninsured risk when he continued to drive on Union business without a valid license and; (5) having, finally having obtained a license in Delaware in December of 2024 only in the aftermath of the first IIO sworn

¹ Ex. 1, IBT Constitution, Art II, Section 2(a); Art. XIX, Sections 7(b)(2) and 14(a).

statement examination, he evaded the required conditions and was driving in violation of the law because he deliberately failed to install an Ignition Interlock Device (IID) on the vehicle that he was operating and used for Union business, the installation of the lock being a requirement of Smith's being able to drive a vehicle legally.²

II. JURISDICTION

Pursuant to Paragraph 32 of the Final Agreement and Order, the IIO designates this as a matter within the jurisdiction of the General President. The Final Order requires that within 90 days of the IIO's referral to him, the General President must file with the Independent Review Officer ("IRO") written findings setting for the specific action taken and the reason for such action.

III. BACKGROUND

Local 326 is in New Castle, Delaware and has approximately 1450 members who are employed in, among other things, transportation systems as drivers and mechanics, and public service and emergency responders. Ex. 2. During relevant time periods related to the charges in this Report, specifically beginning in 2014 and continuing until the present, Smith, a member of the Local since approximately 1986, was, and is currently, the President of Local 326.

A. FIRST CHARGE: FAILURE TO COOPERATE WITH THE INDEPENDENT DISCIPLINARY OFFICERS

1. Charged Conduct:

During two separate examinations under oath conducted by IIO investigators in December of 2024 and March of 2025, Smith testified falsely multiple times while under oath, with the intention of misleading, frustrating, or otherwise impeding the IIO's investigation into the circumstances surrounding his arrest and conviction for driving while intoxicated and his subsequent driving while on Union business without a valid license.

Setting aside for the moment the fact that Smith could not, during these proceedings, collaterally attack his plea, he continually attempted to do so on December 18, 2024, and March 12, 2025, by making false statements. The false statements included his claims that he was not driving a vehicle within the relevant time period under Arizona law; that he was not impaired; that he was not guilty; that law enforcement officers deliberately

² The IID is a small breathalyzer which, when installed in a vehicle, prevents the engine from starting if the driver's breath alcohol level is above a preset legal limit.

and falsely created the traffic citation; and that he did not read his plea agreement. All these statements were false and misleading.

B. SECOND CHARGE: BRINGING REPROACH UPON IBT

1. Charged Conduct:

In Arizona in 2014, Smith was arrested and subsequently convicted of driving while under the influence while he attended a conference regarding the national grievance panel hearing related to his position within the Union. He failed to inform Local 326 and the IBT that: (1) he was arrested, charged, and thereafter convicted of driving while under the influence; (2) that his license was suspended thereafter; and (3) that he failed to obtain a valid license for almost ten years and drove illegally while engaged in union business.

Smith also brought reproach upon the Local and the IBT by breaching his fiduciary duty and violating the Local Bylaws when he drove his vehicle in violation of the law and exposed the Local and the IBT to substantial risk if he had been involved in an accident and/or caused property damage or physical damage to other people. As he could not legally drive, he was not entitled to continue receiving an automobile allowance or Local-funded auto insurance payments. Finally, even when he obtained a license after the first sworn examination, he was in violation of the law in that he deliberately installed the Interlock device in a vehicle that he did not use, instead of installing it in the vehicle he was operating.

IV. INVESTIGATIVE FINDINGS

The following investigative findings are provided in support of the two charges listed above in Section 3A and B.

Smith has been a member of the Teamster since about 1986. Tr. 5.³ He was a union steward in the 1990's and became a business agent in 2000. Tr. 6. Smith became President of Local 326 in 2012. Tr. 10.

THE ARIZONA DUI

IIO's investigation revealed that, in March of 2014, Smith was in Arizona on what he described as union business related to national negotiations and the national grievance panel hearings for a company called AEI Express. Tr. 124. While attending the conference, Smith was arrested and charged with driving under the influence in violation of Arizona law, specifically A.R.S. §28-1381A1 DUI Liquor/Drugs/Vapors/Combo, a Class 1 misdemeanor on March 3, 2014. Smith was also charged with two additional misdemeanors including DUI W/BAC. 08 or

³ Transcripts of Smith's sworn examinations are appended to this Report in their entirety; Volume 1 contains the transcript of Smith's examination on Dec. 18th, 2024; Volume 2 is his examination on March 12, 2025. Pages numbers are continuous: Volume 1 contains pages 1 to 178, and Volume 2 contains pages 179 to 235.

more ⁴; and Extreme DUI BAC.15 - .19. On October 31, 2014, Smith, who was represented by counsel, telephonically entered a plea of guilty before Scottsdale City Court Judge Joseph Olcalvo. See Ex.3, which contains the following court documents including: (1) Arizona Traffic Ticket and Complaint # 1922912 issued to Joseph W. Smith on March 21, 2014. The vehicle in question was identified as a Hertz Rental Ford Edge. Smith was charged with DUI/Alcohol and with having a BAC of .08 w/in 2 hours of driving; (2) the Plea Agreement between Smith and the County of Maricopa for a 1st Offense DUI; and (3) a written Guilty Plea Proceeding Record for Criminal Complaint #01922912 which occurred on October 31, 2014. Smith's change of plea proceeding was done telephonically and there was also an audio recording of the proceedings during which Smith and his attorney appeared via phone and answered the Court's questions, including if Smith understood the plea agreement to which he responded in the affirmative. An electronic copy of the audio recording is attached as Exhibit 4; an unofficial transcript of this recording has been completed by the IIO and is included as Exhibit 5 with this submission.

According to the Guilty Plea Proceeding form which is part of Exhibit 3, the presiding Judge verified each entry by affixing his initials to each listed fact including: whether or not Smith understood the nature of the charges, the penalties and other legal consequences of the plea, whether Smith understood the following rights that he gave up by pleading guilty (including the right to plead not guilty and the right to a trial), and finally that there was a basis in fact for believing that Smith was guilty of the offense charged. Finally, the Judge noted that Smith wished to give up the constitutional rights of which [he] had been advised; that Smith and the prosecutor had entered into a plea agreement; that Smith understood and consented to its terms; and that Smith was satisfied with the services of [his] attorney. Ex. 3 at 4. By entering a plea of guilty, Smith waived his right of appeal.

In sum, the change of plea proceeding documented the fact that the Court fully apprised Smith, who was represented by counsel, of his rights; that Smith understood his rights; and that he agreed to waive those rights by entering a plea of guilty. It should be noted that Smith made no mention during the plea colloquy that the documents presented in support of his conviction were, as Smith told the IIO investigators a decade later, falsely made.

⁴ "BAC" refers to the measurement of blood alcohol content which can be determined by use of a breathalyzer.

During the IIO's sworn examination on December 18th, 2024, Smith was asked if he currently had a license to drive in the state of Delaware, his place of residence. Tr.122. Smith did not directly answer the question, replying that "right now my license is expired." *Id.* When asked when he last had a valid license, Smith replied, "It's [the license] been expired for quite some time." *Id.* When asked how long it had been expired, Smith replied "seven, eight years." Tr.123. When asked if the license could have been expired since 2015, Smith replied, "could have been, yes." *Id.* When asked when he lost his license, Smith replied, "I got into an incident in Arizona, and they flagged me out here." Tr.124.

Smith was asked specifically about the facts underlying the conviction. Smith was asked: "And you drove when you had had too much to drink?" Smith falsely replied, "No, not true." Tr. 125. He was then asked, "You were pulled over for driving under the influence; is that right?" Smith falsely replied, "No." *Id.* Smith admitted that there was "an alcohol event" associated with his time in Arizona. Tr.126. When asked to explain this event, Smith falsely replied that "I was in the parking lot at the Chaparral. I didn't have a car at the time." *Id.*⁵ As noted, according to the Criminal Complaint and Ticket, Smith's vehicle was identified as a Hertz rental and its make, model, and license plate number were noted on the ticket/complaint. *See* Ex. 3 at 1. Smith continued to deny to the IIO that he had any culpability regarding his drinking and driving, stating that "some other people around the country there coupled up and then they locked me up for a DUI. And then, Arizona, that sheriff was out there then." Tr. 126⁶

Smith was questioned further about the status of his license post his conviction. As noted, Smith admitted that his license was suspended after his conviction, Tr.128, and that his license had been expired for years by the time of the first IIO examination in December of 2024. Smith testified that he took the required alcohol course in late 2014 or early 2015 but could not provide definitive proof of such. He claimed he took the course for Arizona via a computer and then took a course in person in Delaware. Tr. 218. However, despite his claims that he fulfilled the requirements shortly after his conviction, he did not renew or receive a new license until the

⁵ Despite his efforts, Smith cannot now contest the facts underlying his conviction during this proceeding due to the doctrine of collateral estoppel. *See United States v. IBT (Vitale)*, 775 F. Supp. 90, 95 (S.D.N.Y. 1991), *aff'd in relevant part* 948 F.2d 1278 (2d Cir. 1991) (not for publication; slip opinion available at <https://irbcases.org/bitstreams/164ecef6-8cfa-4cf4-ba99-234cded376dc/download>).

⁶ Smith never identified the "other people" other than to call them Albanians. He also never identified the Sheriff; he later admitted that he never spoke to the Sheriff and was unable to identify the Sheriff by name, Tr.215, until when later asked during the examination, "And the Sheriff was Sheriff Joe?", Smith responded, "Yes, at the time." Tr. 127.

period between the first sworn statement and the second sworn statement which took place between December 2024 and March of 2025, more than a decade after having been convicted.

Smith provided a convoluted explanation about the status of his license post-conviction, stating that the suspension was due to a “flag” on his driver’s license without a clear explanation as to what the “flag” represented. He claimed that he was not required to have an interlock system on his car because, according to Smith, it was “not part of my plea agreement” Tr. 131. But this was irrelevant. Smith’s plea agreement made no mention of any agreement that prohibited the installation. See Ex. 3 at 2-3. Moreover, the guilty plea proceeding summary document (Ex. 3 at 4) does, in fact, mention the interlock as part of the range of penalties. See Id. at 4 (items 2 and 3). The presiding judge explained to Smith that there were collateral consequences for the crime of driving while under the influence, explaining those consequences as penalties which are not invoked by the criminal justice system. The court then pointed out that “motor vehicle works the same way [as collateral immigration consequences]; this is a major traffic offense [it] goes on your record. If you [have] too many points over the course of the year, it could have an impact on your driving privileges; that’s a maybe. *Absolutely* MVD⁷ will require an interlock device on your car for a period of time, do you understand that?” Ex. 4 at 2:00-2:07, Ex. 5 at 2 (emphasis added). To which Smith replied, “yes, I do.” Id. Smith later admitted to IIO investigators that he was able to receive a new license after Arizona removed the flag. When asked what caused the removal of the flag, Smith replied, “[b]ecause they wanted me to have an interlock put in one of my vehicles.” Tr. 185.

As previously noted, the change of plea proceeding was done telephonically and was audio recorded with the unofficial transcript submitted as Ex. 5. As the transcript reveals, there were three people recorded on the call: the Judge, Smith, and Smith’s defense attorney. While Smith was on the phone with the Judge, Smith’s attorney gave a factual statement to the court which he stated that Smith was operating a vehicle within the jurisdiction; Smith had contact with the police, and that he consumed alcohol prior to driving. Smith made no objection to those statements. Smith claimed during the sworn examination that he pled because he could not afford to proceed to trial but he did not mention this to the Court overseeing his case who would have had the authority to appoint counsel if the Court found that Smith was indigent.

⁷ Motor Vehicle Division of the Arizona Department of Transportation.

During the sworn examination, Smith's answers to questions posed about his guilty plea were often evasive such as stating "if you say so" when asked about certain events rather than responding directly. When he was reminded that he attended the change of plea telephonically, Smith replied, "With the Judge, I don't believe so. My lawyer took care of it, to my knowledge." Tr. 204. Then, obviously hedging his bets, he stated, "I don't ever remember being on the phone with a Judge, not that I couldn't have been, but I don't remember." Id. Smith's memory changed when it was convenient. He apparently could not remember pleading guilty but, when it served his purpose, his memory suddenly was clear – although still in error. For example, as noted above, he claimed he did not remember being on the phone with the Judge because, as he said, it took place years ago. But when it suited his purpose, he claimed – albeit falsely – that his plea agreement prohibited the installation of an interlock system.

When shown court records from Arizona titled Scottsdale City Court Order contained in Exhibit 6, which instructed Smith to complete the alcohol/drug education treatments/screening program that was part of his sentence, Smith replied, "I've never seen this fucking Order so I don't know what you're talking about." Tr. 207. Referring to the Court Order, Smith said "whatever it is, its bullshit." Tr. 208. Smith also testified that he completed the required class claiming the following: "it's on record out there"; "it's on the computer"; "I've got a completion thing somewhere"; immediately followed by "I don't have it" and then, "I thought I gave it to you." Tr. 208. Shortly after that recitation, Smith again described the arrest as an incident where unknown "Albanians" had an argument with him and called the police who "shook his [the unnamed Albanian] hand and they came over and grabbed me and then I was taken to the police station and charged with a DUI." Tr. 214-215.

But Smith's evasive and unlawful conduct continued even when he finally obtained a license in 2025. Smith admitted to IIO investigators that the interlock device – which required the operator of the vehicle to provide a breath sample – was not installed on the vehicle he primarily operated. When asked in his sworn examination to confirm if the interlock device was installed in the Ford Expedition (the vehicle Smith regularly drove), he responded "It's not in this vehicle." Tr. 162. Smith confessed that instead he had placed the interlock on his late father's vehicle. Smith was asked if he saw a problem with this. Smith replied "To me, no." Id. In March of 2025, Smith further freely admitted that he drove the Ford Expedition – still not equipped with the interlock device – to the site of the sworn examination. Tr. 214.

With respect to the issues of notification to either the Local or the IBT, the IIO submitted an additional records request to Smith and Local 326 after the December 2024 sworn examination. One of the requested items was the following:

8. *All written notice(s) Joe Smith made to any officer, executive board member, employee, or member of Local Union 326 at any time in or after 2014 stating that he was not legally permitted to drive in the State of Delaware; Ex. 7.*

Smith's January 29, 2025 response:

#8. *To my knowledge there is nothing in writing in regards to the situation. Ex. 8.*

Smith's assertion in response to the IIO's request is directly contrary to Smith's claim in December of 2024 that the DUI incident was "reported to the IBT way back..." Tr. 219.

When making that claim under oath, Smith claimed that "...we were just covering our bases so we didn't want to, you know, because of the situation out there, so we let Tom Shatz [sic][identified as an investigator for the IBT] know and looked and if the IBT attorney did anything....." Smith claimed that "I believe I forwarded some of the documents just to make sure the IBT knew what was going on." *Id.* However, as noted, in January of 2025, Smith claimed "there is nothing in writing..." Ex. 8.

Smith said Shatz took no action and gave him no advice. Tr. 220. Despite this unsupported claim of notifying Mr. Schatz, when asked if he [Smith] reached out to [Schatz] and said "my license expired because of this incident and I'm driving as a business agent for Local 326 without a license. I just thought I'd let you know. Did you do that?" Smith replied, "No." Tr. 221. Smith admitted that he never told anyone about the loss of his license. Smith was asked, "Have you told anybody at the IBT that you've been driving without a license for the last ten years performing union business?" Tr. 220. Smith answered, "No." *Id.* When questioned further as to whether Smith told anyone at the local union that he'd been driving for the last ten years without a license on union business, Smith's evasive answer was "Not that exactly," claiming that "people were aware I've had issues with my license" without any explanation as to what those issues might be. *Id.* When asked for clarification as to exactly what the phrase "people were aware of issues" meant, Smith was asked, "does that mean [you] don't have a license to drive and [you're] driving on union business? "You've never told anybody that, have you, until you got here [referring to the sworn examination], right? Smith countered with, "I

never told you that.” *Id.* When reminded that Smith did, in fact, testify that he’d been driving without a license in the earlier examination, Smith stated, “It’s expired. In your opinion, I don’t have a license, but it’s been expired.” Tr. 222. When asked whether Smith was saying “an expired license is a license to drive? Is that what you’re saying?” *Id.* Smith responded, “I’m not going to say that.” When asked again, “It’s illegal, isn’t it,” Smith evaded answering directly and did not actually respond to the question, saying “You believe so.” Tr. 222.

CAR ALLOWANCE

The remaining issue involves Smith’s receipt of Union funds under the Car Allowance Policy for the decade when he was unlicensed and should not have been driving for the Union under any circumstances. Smith agreed that the Car Allowance Policy provided for a fixed monthly allowance plus reimbursement for gas, oil and other auto-related expenses including insurance. Tr. 193. In the course of his examination, Smith testified that he believed he was entitled to the auto allowance even though he did not have the legal authority to drive because, according to him, “I do drive.” Tr. 153. Apparently, the illegality of his conduct and both the exposure of the Union to potential liability and the use of Union funds to economically support his illegal driving was – and remains – of little concern to Smith. Smith was asked, “how do you reconcile those two things? Why do you say that you’re entitled to the allowance even though you’re not legally able to drive?” *Id.* Smith’s response was “I don’t.” When asked, “you don’t what?”, Smith replied, “I don’t reconcile it” because, according to his flawed view, his illegal driving was “just like I’m having a driver’s license.” Tr. 154.

During the period when Smith was illegally driving, records provided by Smith himself – records that are incomplete,⁸ but whose accuracy Smith did not dispute, Tr. 193-94 – show that Smith received \$97,838.13 in car allowances and reimbursements for gas, oil and other car-related expenses.⁹ Ex. 9.

⁸ Notably, though the records produced are missing the car allowance he received in one year and the gas, oil, and other related expense reimbursements he received in four of those ten years, Smith does not claim the amount he received in those periods was zero; he simply wasn’t able to locate documentation of the precise amount. Tr. 196.

⁹ The actual total of the figures in the document produced by Smith is \$98,038.13; however other documents persuade the IIO that he overreported his car allowance by \$200 in 2023 on Exhibit 8. The IIO notes that other documents suggest he underreported his car allowance by \$675 in 2022. The total stated in the body of the text (\$97,838.13) resolves all underreporting, overreporting, and omissions on Exhibit 8 in the manner most favorable to Smith.

CONCLUSION

Providing intentionally misleading testimony during an IIO sworn examination violates §14(j) of the IBT Constitution, for which suspension from office, employment and membership is warranted. Giving false testimony constitutes a failure to cooperate with the IIO. Penalties for failure to cooperate range from suspension to an associational ban.

Smith's collection of nearly \$100,000 to which he was not legally entitled requires that he pay this money back to the Union in full. Smith brought reproach upon the IBT by, in effect, causing the local union to fully subsidize his illegal driving for more than a decade.

In this instance, Smith's false accusations against others including law enforcement personnel; his failure to abide by conditions set by a judicial officer; his decade-long illegal activities which put the Union at risk; and his obtaining funds under false pretenses for his own benefit are particularly egregious. Finally, his failure to abide by conditions which were in place in order to ensure his compliance with the law and his cavalier attitude towards compliance do not bode well for his conduct in the future and warrant severe disciplinary action.

Respectfully submitted,
THE HON. TIMOTHY S. HILLMAN (RET.)
Independent Investigations Officer

DATED: June 2, 2026

By:

Nadine Pellegrini

Nadine Pellegrini
Senior Counsel