

INDEPENDENT DISCIPLINARY OFFICERS

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Independent Review Officer
Hon. Benjamin R. Civiletti

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Hon. Joseph E. diGenova

Administrator
John J. Cronin, Jr., CPA

May 18, 2016

James P. Hoffa
General President
International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, D.C. 20001

Re: Disciplinary Decision Concerning Manny Quintero

Dear General President Hoffa,

I have reviewed your letter of April 28, 2016 adopting and reissuing as the Decision of the General President the Report and Recommendations of the Hearing Panel that conducted the hearing on the charges filed against Mr. Manny Quintero. I find that Decision to be inadequate in the circumstances, and I therefore do not approve the Decision.

The Decision is inadequate because the Hearing Panel followed, and you adopted, principles of "just cause" in formulating penalties in IBT disciplinary cases. As set forth in the letter dated June 7, 2011 to you from the Independent Review Board disapproving proposed penalties concerning Officers and Members of Local 82, the "just cause" standard is inapplicable to an IBT disciplinary hearing. Under the Final Order, the decisional law established by the Independent Review Board under the Consent Decree continues to govern. Accordingly, as a consequence of misapplying the governing standard, the Hearing Panel's findings and sanctions that you adopted are inadequate in the circumstances.

The Quintero Decision therefore must be reconsidered under the correct standard set forth in the IRB's Local 82 decision. If upon further consideration you were to correct the defect in the standard applied in rendering your decision and were to conclude upon application of the proper standard that the same penalties should be imposed on Mr.

Quintero as were set forth in the April 28, 2016 Decision, I likely would find that such a resolution is adequate in the circumstances.

Very truly yours,

Independent Review Officer
Honorable Benjamin R. Civiletti

By: 

John J. Cronin, Jr.
Administrator

CC: Bradley T. Raymond, Esq.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

JAMES P. HOFFA
General President

25 Louisiana Avenue, NW
Washington, DC 20001



KEN HALL
General Secretary-Treasurer

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April 28, 2016

Mr. Manny Quintero
2833 North 44th
Fairmont City, IL 62201-2319

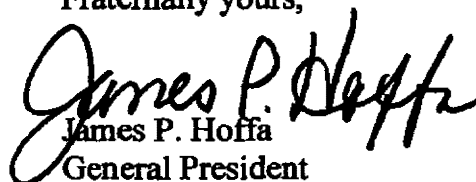
Re: Panel Report and Recommendation

Dear Sir and Brother:

You will find enclosed the Report and Recommendations of the Panel that conducted the hearing on the charges filed against you. I have had the opportunity to review the Panel's findings and conclusions and hereby adopt them as my own.

The Panel's recommendation is reissued as the decision of the General President.

Fraternally yours,


James P. Hoffa
General President

JPH/brc

cc: ~~Hearing Panel~~
~~General Executive Board~~
✓ Joseph diGenova, Esq., Independent Disciplinary Officers
Benjamin Civiletti, Esq., Independent Disciplinary Officers
John J. Cronin, Jr., Administrator, Independent Disciplinary Officers
John T. Coli, President, Joint Council 25
Scott Alexander, President, Local Union 50
Bradley T. Raymond, Esq.
Roland Acevedo, Esq.

**REPORT AND RECOMMENDATIONS OF HEARING PANEL
APPOINTED TO HEAR CHARGES AGAINST LOCAL 50 MEMBER
MANNY QUINTERO**

Introduction

On or about February 11, 2016, the Independent Review Board ("IRB") issued a report to General President Hoffa, recommending that a charge be filed against Local 50 member Manny Quintero, as follows:

While a member of Local 50, you brought reproach upon the IBT in violation of Article II, Section 2 (a) and Article XIX, Section 7 (b) (2) and (10) of the IBT Constitution by threatening to retaliate against a member for exercising their right to meet and discuss Local issues as protected under federal labor law and express his political opinions, to wit:

As detailed [in IRB's report], you while a member and Local employee threatened retaliation against a member who met and discussed Local issues with another member by stating, among other things, that such member would "get nailed" and "get his job taken away from him" for "meddlin' in Teamster business."

On February 18, 2016, General President Hoffa adopted and filed the recommended charge. Subsequently, General President Hoffa appointed a Hearing Panel ("Panel") comprised of the following uninvolved members: Michael H. Goebel, Secretary Treasurer of Local 688; James T. Glimco, President of Local 777; and Andrew Marshall, Secretary Treasurer of Local 104. Brother Goebel was designated to serve as the Panel's chair. The Panel was given the responsibility of hearing the evidence and making a full report to General President Hoffa.

By letter dated March 15, 2016, General President Hoffa notified Brother Quintero that a hearing on the charge was scheduled for April 15, 2016 at the offices of Teamsters Local 688, which is located at 4349 Woodson Road, Suite 200, St. Louis, MO 63134-3718.

The hearing proceeded on April 15, 2016. Brothers Goebel and Glimco were present and participated as members of the panel. Brother Marshall was not present, but the other two members of the panel decided to proceed without him.

Brother Quintero also did not appear at the hearing, despite having been duly notified. The charges were presented by Roland R. Acevedo, Esq.

The following findings and recommendations of the Panel are based on the entire record in this case, including exhibits and sworn testimony appended to IRB's report, the transcript of the Panel hearing, other documents entered into evidence, and the Panel's consideration of the arguments made in support the charges together with Brother Quintero's failure to attend.

Background

Local 50's office is located in Bellville, Illinois. It has approximately 2,505 members. Its principal officer is Scott Alexander.

Manny Quintero became a member of Local 50 in 1987. He was on withdrawal between January of 2003 and June of 2015. His driver's license was suspended during this period, due to multiple DUI convictions. He conceded during his sworn examination by IRB that for a number of years he has had significant problems with alcohol abuse.

In June of 2015, Quintero was hired by Alexander to work as a landscaper and custodian for Local 50. He deposited his withdrawal card at that time and once again became an active member.

Summary of IRB's Evidence Supporting the Charges

Dating as far back as 2004, it appears that there has been bad blood between Brother Quintero and Brother Tom McGowan. Brother McGowan has been a member of the Local since approximately 2000 and was a Business Agent from 2012 through January of 2015 when he was laid off by Alexander. Brother Quintero apparently blamed McGowan for causing him to lose his job back in 2004, when McGowan supposedly told Quintero's then employer that his driver's license had been suspended.

After Brother Quintero started working for Local 50 in 2015, he confronted Brother McGowan at his place of employment, accusing him of circumventing Local 50's referral rules to obtain employment in the craft after he was let go from his job as a Business Agent. On another occasion, Quintero went to McGowan's place of employment and took photographs of him working. Sometime after that incident, the Local's attorney advised Brother Alexander that McGowan had not

violated the Local's referral rules when he obtained employment in the craft after being let go from his position with the Local. Alexander told Quintero about the attorney's advice.

On October 21, 2015, Brother Quintero called Brother McGowan's wife, Aimee McGowan, on her cell phone. Quintero has testified that his cousin provides child care services for Ms. McGowan's child. It appears that he obtained Ms. McGowan's cell phone number from his cousin. Quintero told Ms. McGowan that he wanted to meet with her to discuss something, and would be waiting for her at her place of employment (she is a funeral director at a local funeral home). After speaking with her husband, Brother McGowan, Ms McGowan decided not to go into work that day. One or more of Ms. McGowan's coworkers (at the funeral home) subsequently confirmed that on that morning Brother Quintero was observed sitting in his car in the funeral home's parking lot, apparently waiting for Ms. McGowan. After being informed that Ms. McGowan was not at work, Brother Quintero drove away, and then called her cell phone again, ultimately leaving the following recorded message:

"Hey Aimee, what I was gonna tell you is that Tommy met with Marc Archer at Schatze's the other night and he's telling everybody he's gonna run for, as an agent for business. Well he can't run for an agent's position 'cause of his record. Scott just ran his record, got his record and the only reason he's working is, he's working is because of you and the kid. Scott's gonna let him work to support you and the kid. That's what I was gonna tell you. But if he thinks he's gonna jump in here, mess around with this Marc Archer and do these things that he's doing, he's gonna get nailed and he's gonna get his job and all that taken away from him. So I want you to tell him don't be, don't be meddlin' in with Teamster business and, ah, everything will be fine. But if he chooses to go this other route, it's not going to be good for him. So make sure you tell him this message and, ah, if he, his record you know gets sent to the International but, ah, there's no way he can be, he can be a union agent, ever. Goodbye Aimee. And the only reason I did this is because you're friends with my cousin Sandy. Thank you, bye."¹

¹The transcript of the message appended to IRB's report purports to summarize the recorded message somewhat differently from what the audio recording appended to the report actually reflects. We do not consider the differences to be material. The above quote is based on the audio recording.

In its report, IRB alleges that these comments constituted "an explicit threat" against Brother McGowan for having a discussion about Local Union matters with "an opponent of the incumbent principal officer." It identifies the following statements on the recording as threats:

- "he's gonna get nailed"
- "he's gonna get his job and all that taken away from him"
- "if he chooses to go this other route, it's not going to be good for him."

Analysis and Recommended Conclusions

As indicated, Brother Quintero did not appear at the hearing to offer any explanation or defense to the charges against him. The evidence nonetheless shows that he contacted Ms. McGowan on October 21, 2015, and that he left the recorded statements on Ms. McGowan's cellphone that are quoted above. From the words he used, it is clear to us that they were directed at Ms. McGowan in retaliation for her husband's protected discussions about Local Union politics with a known political opponent of Brother Alexander, the same Local officer that had recently arranged for Quintero to be hired by the Local.

True enough, federal labor law recognizes that debate in union politics "should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks." *Linn v. United Plant Guard Workers*, 383 US 53, 62 (1966). In the context of union politics, it is not always easy to draw a line between improper "threats of violent or illegal conduct" and "mere rhetorical slings and arrows." For example, a reference to using a "two by four" on political opponents has been deemed to be permissible in the context of a union election campaign, Wsol, P-095-IBT-CHI (September 20, 1995), *aff'd* 95 Elec App 17 (October 10, 1995), while more recently statements by a union official to the effect that the supporters of political opponents of an incumbent candidate for local union office should be "punished" have been deemed to be impermissible, Proposed Charges Against International Vice President, Local 25 and JC 10 President, Sean O'Brien (October 17, 2013) (for which O'Brien received a two week unpaid suspension).

Here, we conclude that Quintero's comments to Ms. McGowan were intended to intimidate Brother McGowan from becoming involved in Local 50 politics. We are particularly troubled by Quintero's decision to confront Brother

Mcgowan's spouse at her place of employment and about Quintero's recorded message advising Ms. McGowan that her husband's protected discussions about Local Union politics would get him "nailed," could cost him his job and "would not be good for him." Although the message is somewhat garbled and rambling, it clearly conveyed a message that could be reasonably be construed as threatening. In this regard, we are mindful that Brother Quintero was, at the time of these events, an employee on the Local's payroll.

Recommended Penalties

In formulating penalties in disciplinary cases brought under the IBT Constitution we are guided by principles of "just cause." This means we will consider factors such as the nature and seriousness of the offense, the member's prior service and disciplinary record, the member's position in the Union and the existence of any mitigating circumstances. Progressive discipline may be appropriate in some situations, but not in others.

The charged offense here warrants, in our view, a significant ban from holding Union office or employment as well as a suspension from membership. We understand that Brother Quintero has been on withdrawal since January of 2016. We accordingly recommend that he be barred from holding any office or employment, including employment as a consultant, with Local 50 or any other IBT affiliate for a period of one year from the date of this report, and that his membership in Local 50 be suspended, also for a period of one year, also from the date of this report.

April __, 2016

Michael H. Goebel

James T. Glimco

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April 25, 2016



Michael H. Goebel

James T. Glimco

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April 22, 2016

Michael H. Goebel



James T. Glimco