

**INTERNATIONAL BROTHERHOOD OF TEAMSTERS****JAMES P. HOFFA**  
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**TO:** Mr. Rex Beatty & Mr. Jim Flegel  
Teamsters Canada Rail Conference

**FAX NO.:** (613) 235-1069

**FROM:** D'Andrea Carter

**DATE:** February 14, 2012

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# INTERNATIONAL BROTHERHOOD OF TEAMSTERS

JAMES P. HOFFA  
General President

25 Louisiana Avenue, NW  
Washington, DC 20001



C. THOMAS KEEGEL  
General Secretary-Treasurer

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February 13, 2012

**VIA FACSIMILE & U.S. MAIL**

Mr. R.A. Beatty, President  
Mr. Jim Flegel, Secretary-Treasurer  
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CANADA

Mr. L. Isaak  
327 Buckwold Cove  
Saskatoon, Saskatchewan S7N 4V9  
CANADA

Dear Sirs and Brothers:

Thank you for your comprehensive responses to my letter of January 10, 2012, soliciting information concerning the charges pending against Brother Beatty and requesting past interpretations of the TCRC Bylaws. As I indicated in my letter, I have approached this under my authority to interpret Bylaws, rather than as a jurist deciding disciplinary charges and determining culpability.

This letter addresses the propriety of the ongoing initiative to amend Section 4 of the TCRC Bylaws. I will respond to the issues involving Brother Beatty's eligibility to retain his office and active membership shortly. For the purpose of resolving the questions regarding the legitimacy of the initiative, I presume that Brother Beatty properly holds the office of President, and has held it during the period in question. This should not, however, suggest that I have made a determination regarding the pending issue of his membership status.

As you all know, Section 4 of the TCRC Bylaws provides for Initiatives. Essentially, whenever 25% of the active membership, or divisions representing 25% of the active membership, sign a petition to change the Bylaws, it is

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mandatory for the President to prepare a ballot "*with the question worded as presented in the petition*, to be voted on by all those holding active membership in the Rail Conference." (Emphasis added).

Pursuant to that provision, a petition was distributed to have the divisions endorse sending an amendment to Section 4 of the Bylaws to the membership for ratification. Specifically, the proposed amendment would add the following language to Section 4: "In addition, the President, if deemed appropriate, may propose changes to the Bylaws with the question sent to every member by government mail." Additional language was proposed that would permit electronic voting at the discretion of the executive board and/or the President. Other language was proposed to provide for the verification of signatures in support of the petition. The specific language of the proposed amendment was incorporated in the petition sent to the divisions seeking their approval or rejection of the proposal to begin the membership initiative process.

Subsequently, the President reported that a sufficient number of the divisions representing a sufficient percentage of the membership responded and approved the petition advocating that the amendments to Section 4 be put "to the membership to determine whether or not to change Section 4 of the TCRC Bylaws.<sup>1</sup> On December 23, 2011, Brother Beatty distributed ballots to all members. Unlike the petitions distributed to the divisions, the ballots sent to the members did not contain either the language of the current Section 4 or the proposed language of the amendment. Rather, the ballot contained the statement, "Are you in favour of modifying the TCRC Bylaws, where necessary, to provide the Membership with a 'one man-one vote' on changes, deletions and/or additions to the TCRC Bylaws as may be recommended to the TCRC Membership by the TCRC President and, where practicable to conduct such vote electronically?" As of this date, the ballots are still out, with the deadline for returning a valid ballot established as February 21, 2012.

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<sup>1</sup> I have recently received correspondence from Division 320 asserting that it was improperly listed as having endorsed the initiative. If the number of members in Division 320 (357) is deducted from the total of the members listed as having endorsed the initiative (2517), the required 25% of the total membership (9421) would not have been attained and the proposed amendment should not have been sent out. For the reasons set forth in this determination, I need not resolve this factual dispute at this time.

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The challenge to the propriety of this procedure has been filed on several grounds, including Brother Beatty's authority to serve as President. Only one issue needs to be addressed, however. Brother Beatty contends that the proposition sent to the membership for ratification does not have to be exactly the same as that distributed to the divisions in the petition. Those challenging the ballot point to the language in the current Bylaws that specifies that the ballot contain "the question worded as presented in the petition..."

I must agree with the position taken by the challengers. While I accept Brother Beatty's contention that, as President, he could correct grammatical errors or spelling mistakes contained in the petition, the differences between the statement on the petition and that on the ballot far exceed such ministerial acts. The current requirement of Section 4 is clear and recognizes the importance of permitting members to see the exact text of amendments they are asked to approve. In writing Bylaws language, the devil is often in the details. A summary of the proposed amendment is not sufficient, and that is precisely what the statement on the ballot is. Moreover, the summary contains an unnecessary and somewhat inaccurate characterization of the effect of the amendment. The primary change is not to afford members a "one man-one vote" opportunity on Bylaws amendments. The members already have that right. The thrust of the change is to authorize the President to submit amendments to the members through the initiative process despite the fact that the amendments have not been approved by the required percentage of the members or divisions. The President does not have that right under the current Bylaws. The importance of the change may not be clear to the average member from a reading of the statement on the ballot. Undoubtedly, that is why the current Bylaws require that the initiative ballot contain "the question worded as presented in the petition."

Accordingly, I find that Brother Beatty did not submit a proper initiative ballot to the members. The ballots returned by the February 21 deadline should be collected and destroyed.

There remains the question of whether Division 320 endorsed the petition. I have received a statement from Don Fisher, President of the Division, and presume you have each received it as well. I will entertain additional statements regarding whether Division 320 actually endorsed the petition on June 15, 2011. If Division 320 has minutes of any meeting at which the issue was considered, please submit them to this office. Likewise, if anyone has an explanation as to the

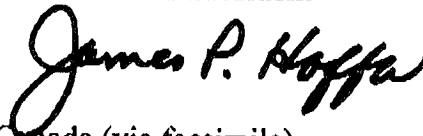
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circumstances surrounding the listing of Division 320 as a supporter of the initiative, that should be submitted to this office as well.

Finally, I am aware that this dispute has generated considerable controversy within the TCRC. I prefer that until additional information is ascertained, the parties consider this as a legitimate difference of opinion over an interpretation of the Bylaws that is being resolved by this determination. I would not look favorably upon efforts to utilize this difference of opinion as a basis for filing charges or launching a prolonged and disruptive investigation of the circumstances that led us to this point. In short, your mutual cooperation in resolving this last issue regarding the adequacy of the endorsement is expected and appreciated.

Fraternally yours,

James P. Hoffa  
General President



JPH:gwc

cc: Robert Bouvier, President, Teamsters Canada (via facsimile)  
John F. Murphy, Director, Teamsters Rail Conference (via facsimile)  
Don Fisher, President, Teamsters Canada Rail Conference-Division 320