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Our File:
Your File: 534391

February 14, 2008

VIA FAX NO. (780) 485-1902 ONLY

**MR. DAN SHEWCHUK,
PRESIDENT**

TEAMSTERS CANADA RAIL CONFERENCE
130 RUE ALBERT STREET, SUITE 1710
OTTAWA ONTARIO K1P 5G4

Dear President Shewchuk:

Re: Conduct of 13 February 2008 Memorandum of Settlement Ratification Ballot Collection and Count

I was retained by the Teamsters Canada Rail Conference (the "Union") to investigate the process utilized by the Union in its collection and count of the membership's mail-in ballots pertaining to the 13 February 2008 Memorandum of Settlement ratification vote. Yesterday I attended the Union's offices located at 101-10820 24 Street S.E. in Calgary where I interviewed several of the Union's officers and employees and personally observed the entire ballot counting procedure—from beginning to end.

As a result of my investigation, it is my opinion that the procedures undertaken by the Union in collecting and counting the ballots are unimpeachable and in complete compliance with Teamsters Canada Rail Conference Bylaws Section 39. Having witnessed several other organizations' ballot collection and counting procedures, I was impressed by the comparatively stringent measures that the GCA secretary-treasurers and the board of tellers undertook to preserve the integrity of the secret ballot process —procedures that went beyond those required by the Bylaws.

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I make the following observations:

- When Bylaw Section 39(a)(iii) makes reference to the "Secretary Treasurer" or the "secretary-treasurer of the GCA" it is not referring to the individual who from time to time is filling those offices, but rather should be read as "the office of" the secretary-treasurer. Any other interpretation would be unreasonable and impractical.
- The acts required to be done by an office-holder (the secretary treasurers in this circumstance) may be done by his or her employees or agents. Thus when the ballots were physically handled by the Union's Lead Office Administrator and Office Administrator they were acting in their capacity as agents of the secretary-treasurers for the purposes of the Bylaws Section 39.
- The Bylaws Section 39 is silent with regard to how and when the ballots are to be retrieved from the address designated for members to "return his/her ballot to the Secretary-Treasurer." The adopted practice of the secretary-treasurer retrieving, through his agents, ballots from PO Box 422251 RPO Southland daily during the voting period, as opposed to collecting all ballots at once after the deadline for ballot-return has passed, does not breach the Bylaws, and is a practical necessity due to the fact that the physical dimensions of the post office box is insufficient to hold several thousand ballot-return envelopes. In my opinion the adopted practice was practical, reasonable, and not in breach of the Bylaws.
- The chain of possession and control of the ballots once retrieved from the post office box by the agent of the secretary-treasurer was unbroken. When not in the physical control of one or the other of the agents, the ballots were secured in locked locations and inaccessible to the general public or unauthorized individuals. In my opinion the ballots, once retrieved from the post office box, never left the possession and control of the offices of the four GCA secretary-treasurers.

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- There is nothing in the Bylaws that preclude the Union from keeping an ongoing statistical tally of ballot-returns during the open period of the ratification ballot. Likewise, there is nothing in the Bylaws that either mandates, or precludes, the Union from releasing that information to its member divisions. In this case statistical tally information was not kept in physical proximity to the ballots which were secured in locked locations, and an individual's obtaining statistical tally information could not, and did not, breach the integrity of the ballot collection process.

- Scrutineers, secretary treasurers and tellers are provided with detailed instructions and are required to agree to strict confidentiality requirements. My observations confirm that the individuals serving in those positions take their responsibilities seriously, and the measures that they undertook to preserve the integrity of the secret ballot process was stringent compared to other organizations' ballot counting procedures that I have witnessed. The ballot count was performed in a securable Board Room in which only authorized persons and myself were present.

Please contact me if you would like me to explain any of the issues discussed in this letter.

Sincerely,

McGown Johnson



E. Wayne Benedict, LL.B (Distinction), B.HRLR (Great Distinction)
Barrister and Solicitor