

MEMBERS FIRST COMMITTEE

of the

BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES

FLEMING DISCHARGES JOEL MYRON, PAUL SWANSON AND SUE CRESWELL

**FLEMING REVERSES CAMPAIGN PLEDGES
AND BETRAYS CAMPAIGN SUPPORTERS**

STARTS NEW ADMINISTRATION WITH LIES AND DISHONESTY

WELCOME TO THE BOILERMAKER PROGRAM

In a letter dated July 26, 2002, President Mac A. Fleming fired 3 appointees as of July 26, 2002 without notice or reason. The appointees are Joel Myron, Director of Strategic Coordination and Research, Sue Creswell, Director of Communications and a 35 year employee of Grand Lodge and Paul Swanson, Director of Organizing. Fleming imposed these terminations even though he had assured all three appointees, both before and after the Convention, that they would be retained. Although Fleming may have had the right to fire them, the manner in which he fired them is worse than the manner in which the railroads fire our members.

Boilermaker Fleming Acts Like Railroad Management

Sister Creswell started working as a Secretary at the BMWE in 1967 and had rights within the bargaining unit. When she attempted to bump back, Fleming refused to allow her to bump, stripping her of a position she had 35 years seniority for. Sister Creswell has filed a grievance which Fleming denied on the most flimsy

grounds. He claims that after 35 years of loyal work at the Brotherhood, over 20 of which had been as a Grand Lodge Appointee, she has too volatile a personality and could not work there.

Brother Swanson, fresh from a successful organizing drive on the Wisconsin Central, was dismissed in a similar letter. This is the same Brother Swanson who President Fleming praised repeatedly at the Convention. Brother Swanson, on limited resources, has successfully organized 2 of the most virulently anti-labor railroads in the recent history of the Brotherhood, the Florida East Coast and the Wisconsin Central. But that doesn't matter to Mac Fleming. Just dump him with no notice.

Brother Myron's dismissal follows the same anti-union, anti-BMWE termination practices exhibited in Sister Creswell's and Brother Swanson's cases. Several times prior to the Convention and after the Convention Fleming told Brother Myron, and several other Grand Lodge and System Officers, that he was going to be retained as Director of Strategic Coordination and Research. Brother Myron didn't even attend the Convention because he was critically involved in DC on Amtrak matters. Brother Myron was the architect of our local handling strategies with Conrail and Amtrak during the PEB 219 round of bargaining which saved our members on Conrail and Amtrak from receiving the worst of PEB 219. Myron was the architect of our PEB 229 strategies that brought our members on the PEB 219 railroads travel allowance, Feb. 7, 1965 job security, a Cadillac sub-plan on Conrail, the equity wage adjustment and numerous other benefits. Brother Myron was the architect of the plan that saved Railroad Occupational Disability, that improved conditions for our Brothers and Sisters on Amtrak during the 1997 round of bargaining and many, many other plans and strategies which benefitted our members on CSX, NS, UP, CN, CP, and BNSF, as well as on small roads. According to the arbitrator, Bob Harris, President Fleming agreed to the PEB 219 work rules. Although Fleming denies it, Harris did not say that about any other union president involved in the PEB 219 round of bargaining. He admitted that most fought PEB 219, but Fleming, he stated agreed to the work rules. Our President is President Mac (PEB 219 Work Rules) Fleming.

Discharges Have Generated Opposition

There has been an outpouring of opposition to both the terminations and the manner in which the terminations have been handled. Claiming that he will not give his reasons for the terminations because of anticipated litigation by Myron, Swanson and Creswell, Fleming has gone on one of his patented lying campaigns where he talks to Grand Lodge Officers and System Officers individually and comes up with whatever he thinks will work with that particular officer. And in some instances his lies work. However nearly all of the System Officers who attended the Northwest Regional Meeting, a region that supported Fleming at

Convention, have signed a petition demanding that these terminations should be properly handled and questioning his right to lead the union. The Northeast System Federation, another pro-Fleming System at the Convention, has approved charges filed by Myron against Fleming challenging the manner in which the terminations occurred as violating the Constitution and By-laws and basic principles of unionism and asking that Fleming be removed as President and forbidden from holding any Grand Lodge position. And representatives of the vast majority of our Canadian Brothers and Sisters have expressed outrage over both the terminations and the manner of termination.

PRESIDENT PEB 219 FLEMING SETS STAGE FOR A NEW 219 DEAL

President PEB 219 Fleming has done nothing for the Labor Movement in general or the membership of the BMWWE in particular during his whole tenure as President, except agree to the PEB 219 work rules according to Arbitrator Harris. He regularly lies and his only contribution has been some competent staff members. He has gotten rid of 3 of his competent staff, and the manner in which he terminated them means the rest of his staff will not function in an independent fashion, for fear of being sacked with no notice, no benefits, no future after years of loyal, productive service to the membership. And although there are some highly talented, skillful staff left, they have neither the time or the particular skill set necessary to move the Brotherhood forward in the best manner possible. Those who President PEB 219 Work Rules Fleming terminated cannot be replaced by those we have left.

The new Grand Lodge Officers and Executive Board know this. Several of them would not have backed Fleming if he had told them the truth about his intentions to dismiss one or all of those terminated. Most of them actively looked for another candidate to support before reluctantly supporting Fleming. So President PEB 219 Work Rules simply lied to them before and after Convention like he lied to those terminated. Most of the other Grand Lodge Officers and Executive Board KNOW that Creswell, Myron and Swanson should not have been terminated in the manner they were terminated, even if Mac has the right to choose his staff. But whether this Executive Board and these new Grand Lodge Officers will stand up and dump Mac remains to be seen. Will they act in a politically expeditious manner hoping to be taken into the womb of the IBB Officers' Pension, or will they do the right thing and dump President PEB 219 Work Rules? Will they justify dismissing loyal, long term employees by letter, with no notice, no salary and no future, or will they act as if they are unionists?

FLEMING TO RUSH OUT BOILERMAKER BALLOTS TO MEMBERSHIP TO COVER UP HIS WRONG DOING

Which leads us to President 219 Work Rules Answer – send out the Merger ballots on October 1, 2002. He believes that if he can get under the umbrella of the IBB Officers' Pension quickly, he can get away from his lies, and simply ease on down the road.

President 219 Work Rules has weakened the BMWWE just as it considers the IBB Merger. The Merger Agreement preserves the staff and functions of the Washington office. Now that Myron won't be there his functions won't be there either. So if the membership votes for the merger, the IBB saves money because they won't have to take on Myron or the functions he performs. The same is true for Swanson. I'm sure the IBB and Fleming and company will say something else, come up with some new side letter, but the manner in which President PEB 219 Work Rules has functioned shows that they'll just ignore their commitments, ignore doing the right thing and the union thing, and try to have some out of work guy or woman bear the brunt and cost of enforcing those commitments.

It also brings into question whether we should even be considering the IBB Merger now. Until we resolve these issues, should we be entering another union? The BMWWE is fractured even more now than it was at Convention. It appears that Canada is seriously considering leaving BMWWE. Our President has changed from one who recognizes his own limitations to one who believes he can function as a dictator and intimidate his key staff, the ones we rely on to do the right thing when Fleming's limitations would lead us in another direction. This is not the time for us to go marching into a whole new environment, even if you can afford to give up \$1 per hour of what you earn in order to go into the IBB pension. Think about it.

The manner that all of this has occurred will test us as a Union. Either we believe in principles of unionism and have the internal fortitude to hold ourselves to those standards, or we believe that it's OK to maltreat our own people and mask it with a merger. If we're not unionists, then why call ourselves a union? All of this is before us now. I hope we choose to do the right thing.

BOILERMAKER BALLOTING RULES BEING CHALLENGED FEDERATIONS FIGHT FOR FREE SPEECH

On July 10, 2002, the delegates to the Convention passed resolution to submit the proposed merger to a vote of the membership. The resolution requires the President to "take steps as they deem necessary to enable the membership to cast an *informed* vote. . . ." (emphasis added). Unfortunately, it doesn't look like Brother Fleming wants an "informed" vote or a "meaningful" vote - just a "yes" vote.

On July 19, 2002, Jed Dodd, general chairman of the Pennsylvania Federation, and Bruce Glover, general chairman of the Burlington Northern Federation wrote to Brother Fleming, requesting the right to communicate their opposition to the proposed merger with the Boilermakers to the members of the Union, to conduct a count by local lodge instead of by region, and to appoint an independent professional election administrator. They also filed a new motion for preliminary injunction with the federal court in Washington to make sure the ballots were not secretly printed and mailed before the members even knew the vote was about to take place - which is what happened in 2001.

Fleming and the Grand Lodge argued to the Court that they had not yet decided what procedures would be followed in the upcoming referendum, and that therefore there was nothing for the Court to rule on. On July , 2002, the Court denied the Temporary Restraining Order on the grounds that since there was no election procedure in place, there was no imminent harm currently facing Plaintiffs. However, the judge did order that Defendants give at least 15 days notice prior to the mailing of any ballots, thus precluding any referendum until the Court could consider the request for a preliminary injunction.

On August 5, 2002, the Court denied the Preliminary Injunction. Although the Court accepted the general statement of law submitted by the plaintiffs, it ruled that there could be no imminent or irreparable harm until the Defendants actually set the procedures for the new referendum.

What Defendants did not tell the Court was that the procedures were to be discussed by Defendant Fleming and the Merger Committee on August 8. At that meeting, Defendants affirmed that they would use the same defective procedures as were used during the 2001 referendum. Brother Fleming communicated that information to Brothers Dodd and Glover in a letter dated August 13, 2002. That same day, Brother Fleming filed their own Motion for Leave to File Supplemental Counterclaim with the Court. Suddenly, the case was now ripe, and ready to be decided on their timetable, and according to their statement of the issues.

Brother Fleming specifically rejected each of the three items raised by Brothers Dodd and Glover. He "concluded that the BMWWE would use the same procedures that it had devised to count the 2001 referendum." He intends to use the mails, the BMWWE Journal, and its website to lobby members to vote in favor of the merger, but will not allow opponents of the merger to use any of those avenues to communicate their views to the members. He will not remove Delancey Printing from the list of vendors, and he will not count ballots by local.

Moreover, Brother Fleming now seeks to make it impossible for opponents of the merger to communicate with members by cutting off any means for paying for such communications. The Grand Lodge has filed a proposed counterclaim against the plaintiffs, alleging that the Pennsylvania Federation, Burlington Northern System Federation, and all other system federations and local lodges are prohibited from expending any of their membership funds to oppose the merger. However, the Grand Lodge, System Federations and Local Lodges may spend their funds to support the merger.

It seems like Brother Fleming looks at worker rights the same way as most employers do. You have the right to speak- it's just that no one has a right to listen. It's hard to see how this will result in an "informed" vote.

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