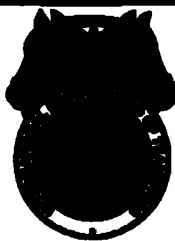


# INTERNATIONAL BROTHERHOOD OF TEAMSTERS

**JAMES P. HOFFA**  
General President

25 Louisiana Avenue, NW  
Washington, DC 20001



SECRETARY  
GENERAL

**C. THOMAS KEEGEL**  
General Secretary-Treasurer

2007 AUG 13 P 1:14

202.624.6800  
www.teamster.org

**SENSITIVE**

**TO: General Counsel  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20463**

**MUR # 5932**

2007 AUG 10 A 8:55

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

## COMPLAINT

The International Brotherhood of Teamsters' ("IBT") Democratic-Republican Independent Voter Education ("DRIVE") Political Fund and Teamsters Local Union No. 305, by and through IBT General Counsel Bradley T. Raymond, bring this complaint pursuant to 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4. DRIVE and the IBT's General Counsel can be reached at: International Brotherhood of Teamsters, 25 Louisiana Avenue, N.W., Washington, DC 20001. Teamsters Local Union No. 305 can be reached at: 1870 N.E. 162<sup>nd</sup> Ave., Portland, Oregon 97230

### **I. SUMMARY**

This complaint involves Teamsters Local No. 305's right to solicit voluntary contributions to DRIVE from employees of Freightliner LLC ("Freightliner") through a payroll deduction plan.

### **II. FACTS**

Teamsters Local No. 305 is based in Portland, Oregon. Mr. Tony Andrews is the Secretary Treasurer and Principal Officer of Teamsters Local No. 305. Freightliner, based in Portland, Oregon, is a subsidiary of Daimler-Chrysler AG ("Daimler-Chrysler").

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Mitchell J. Cogen, Esq. is Corporate Counsel for Freightliner. Some of Freightliner's employees are members of Teamsters Local No. 305.

As stated above, DRIVE is a political committee of the IBT. It is registered and authorized to conduct activity on the federal level and, among other places, in the State of Oregon. On June 28, 2007, in correspondence with Mr. Cogen, IBT General Counsel Bradley T. Raymond, on behalf of Local 305, asked Freightliner to permit DRIVE to administer a contribution check-off program in conjunction with Freightliner's payroll operations according to the standard protocol that DRIVE uses for all of its operations. See [Exhibit A] (June 28, 2007 letter). The request was based on the following facts: 1) Freightliner is a subsidiary of Daimler Chrysler; 2) Daimler-Chrysler sponsors the Daimler-Chrysler Corporation Political Support Committee which is used to solicit voluntary political contributions from stockholders or executive or administrative personnel and their families; and 3) the DRIVE check-off program is standard fare that both corporations and labor organizations employ to raise money for their political action committees. See 11 C.F.R. 114.5(k)(1).

On July 13, 2007, in a letter from Mr. Cogen to Mr. Raymond, Freightliner responded to Local 305's request and "respectfully disagree[d]" that it is legally required to accommodate DRIVE contributions despite the solicitation of voluntary political contributions by it's parent corporation, Daimler-Chrysler. [Exhibit B].

Freightliner continues to reject the effort by Teamsters Local 305 to institute a DRIVE payroll deduction program. Freightliner's actions violate FEC laws and regulations.

### **III. LEGAL ANALYSIS**

The United States Code states expressly that:

Notwithstanding any other law, any method of soliciting voluntary contributions or of facilitating the making of voluntary contributions to a separate segregated fund established by a corporation, permitted by law to corporations with regard to stockholders and executive or administrative personnel, shall also be permitted to labor organizations with regard to their members.

See 2 U.S.C. § 441b(b)(5). The applicable federal regulations state that:

Any corporation, including its subsidiaries, branches, divisions, and affiliates, that uses a method of soliciting voluntary contributions or facilitating the making of voluntary contributions from its stockholders or executive or administrative personnel and their families, shall make that method available to a labor organization representing any members working for the corporation, its subsidiaries, branches, divisions, and affiliates for soliciting voluntary contributions or facilitating the making of voluntary contributions from its members and their families. Such method shall be made available on the written request of the labor organization and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby.

See 11 C.F.R. § 114.5(k) (*emphasis added*).

As the words of the regulation and statute make clear, the mandate that company and labor organization PACs be treated equally applies not only to the corporate parent – in this case, Daimler-Chrysler – but also to any subsidiaries, branches, divisions, and affiliates of the parent – *i.e.*, Freightliner. In other words, to the extent that Daimler-Chrysler solicits contributions to a PAC from its own employees, its subsidiaries (including Freightliner) must as a matter of law permit labor organizations representing their employees (such as Teamsters Local No. 305) to solicit voluntary contributions to DRIVE from the subsidiaries' employees through payroll deduction.

In this regard, DRIVE representatives believe that Daimler-Chrysler uses a payroll deduction plan, or a check-off system, for voluntary contributions to the Daimler-

Chrysler Corporation Political Support Committee, FEC identification number C00043687. Again, according to the regulations cited herein, because Daimler-Chrysler uses a check-off plan, Daimler-Chrysler and Freightliner must permit Teamsters Local No. 305 to use a check-off plan for its members. See 11 C.F.R. § 114.5(k)(1).

**IV. PRAYER FOR RELIEF**

For the reasons discussed herein, DRIVE and Teamsters Local Union No. 305 respectfully request that the FEC take whatever steps are within its authority to ensure that Teamsters Local No. 305 is able to solicit voluntary contributions to DRIVE from its members employed at Freightliner using a payroll deduction program

Respectfully submitted,



Bradley T. Raymond  
General Counsel  
International Brotherhood of Teamsters

District of Columbia

Signed and sworn to before me  
this 6<sup>th</sup> day of August, 2007.

  
Notary Public

My commission expires: \_\_\_\_\_

Linda M. Benzer  
NOTARY PUBLIC, DISTRICT OF COLUMBIA  
My Commission Expires July 14, 2010

# INTERNATIONAL BROTHERHOOD OF TEAMSTERS

**JAMES P. HOFFA**  
General President

25 Louisiana Avenue, NW  
Washington, DC 20001



**C. THOMAS KEEGEL**  
General Secretary-Treasurer

202.624.6800  
www.teamster.org

June 28, 2007

## **By Facsimile (503-745-5096) and Regular Mail**

**Mitchell Cogen, Esquire**  
Corporate Counsel  
Freightliner LLC  
4747 Channel Avenue  
Portland, OR 92717

Dear Mr. Cogen:

I am writing to you in follow-up to our conversation earlier this week as General Counsel for the International Brotherhood of Teamsters and on behalf of Teamster Local 305. Local 305 has informed me that it believes your Company is violating the Federal Election Campaign Act, 2 U.S.C.A. §441b(a)(4)(d)(5)-(7), and its accompanying regulation 11 C.F.R. §114.5(k), by failing to treat the Teamsters' "DRIVE" PAC the same way it's parent corporation, DaimlerChrysler AG, treats the Company's PAC in regard to permitting payroll deductions for voluntary PAC contributions.

It is my understanding that there have been a number of telephone calls to the Company concerning this issue, and that the pertinent regulation has been cited to you. In particular, 11 CFR Section 114.5(k) appears to be directly applicable. It states, among other things, that "[a]ny corporation, including its subsidiaries, branches, divisions, and affiliates, that uses a method of soliciting voluntary contributions from its stockholders or executive or administrative personnel and their families, shall make that method available to a labor organization representing any members working for the corporation, its subsidiaries, branches, divisions and affiliates for soliciting voluntary contributions or facilitating the making of voluntary contributions from its members and their families. Such method shall be made available on the written request of the labor organization and



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**Mitchell Cogen, Esq.**

**June 28, 2007**

**Page 2**

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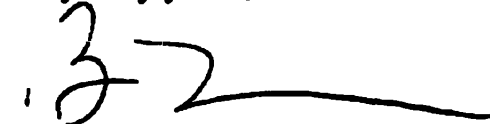
at a cost sufficient only to reimburse the corporation for the expenses incurred thereby." As you are aware, DaimlerChrysler sponsors the DaimlerChrysler Corporation Political Support Committee. The plain language of the quoted regulation mandates that similar methods for facilitating voluntary contributions must be adopted for the members and families of any DaimlerChrysler subsidiary, including Freightliner, LLC. Of course, I understand that you may have a different position on this issue, but candidly that position appears to be directly at odds with the regulation and underlying FEC authority. See FEC AO 2003-06.

Pursuant to 2 U.S.C.A. §437(g), any person who believes a violation of the Federal Election Campaign Act has occurred may file a complaint with the Federal Election Commission. If the Commission finds that your Company has knowingly and willfully violated this Act, it could require it to pay a civil penalty and/or refer the matter to the Attorney General of the United States for further enforcement actions.

Please contact the Local at your earliest convenience, but not later than two weeks from the date of this letter, to discuss arrangements for accommodating voluntary DRIVE contributions through payroll deductions by members of the Local that are employed by Freightliner.

Thank you.

Very truly yours,



**Bradley T. Raymond**  
**General Counsel**

**BTR/jlb**

**cc: Tony L. Andrews, Secretary-Treasurer, Teamsters Local 305**  
**K.C. Hortop, Esq.**

**Mitchell Cogen, Esq.**

**June 28, 2007**

**Page 3**

**bcc: Christy Bailey**

**Martin Kendall**

**Andrew Herman, Esq. (via fax)**

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**FREIGHTLINER.**  
LLC

A DaimlerChrysler Company



Mitchell J. Cogan, Esq.  
Corporate Counsel

**VIA FIRST CLASS U.S. MAIL**

July 13, 2007

Freightliner LLC  
4747 N. Channel Avenue  
Portland, OR 97217-7889  
P.O. Box 3849 C38-LGL  
Portland, OR 97208-3849  
503.745.8478 Phone  
503.745.5889 Fax  
MtcCogan@Freightliner.com

Mr. Bradley T. Raymond, Esq.  
General Counsel  
International Brotherhood of Teamsters  
25 Louisiana Ave., NW  
Washington, DC 20001

Dear Mr. Raymond:

I am in receipt of your June 28, 2007 letter regarding the Federal Election Campaign Act ("FECA") and its implementing regulations in which you set forth, on behalf of Teamster Local 305, your belief that Freightliner LLC ("Freightliner") is failing to satisfy its obligations under said laws. Specifically, you contend that since DaimlerChrysler AG "sponsors the DaimlerChrysler Corporation Political Support Committee," applicable law mandates Freightliner to create and make available to employee members of Local 305 a system for effectuating voluntary payroll deduction contributions to the Teamsters' "DRIVE" PAC. I respectfully disagree with your contention.

2 U.S.C.A. §441b(b)(6) provides that "[a]ny corporation, including its subsidiaries, branches, divisions, and affiliates, that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions, shall make available such method, on written request and at a cost sufficient only to reimburse the corporation for the expenses incurred thereby, to a labor organization representing any members working for such corporation, its subsidiaries, branches, divisions, and affiliates." (emphasis added). 11 CFR §114.5(k), the regulation that I cited to you in our phone conversation, contains substantially the same provision. Notably, under both the statute and regulation, the plain language interpretation of these provisions mandates that only a corporation or its specified related entities that utilizes a method of soliciting voluntary contributions or facilitating the making of voluntary contributions must make available a similar mechanism to a labor organization upon written request.

Where a corporation uses no method to solicit voluntary contributions or to facilitate the making of voluntary contributions from stockholders or executive or administrative personnel to a separate, segregated fund, no legal requirement exists to create or make available any method for such voluntary contributions to a labor organization. 11 CFR §114.5(k)(4). Freightliner does not utilize any such method or mechanism and, under such circumstances, it appears clear that no requirement to do so exists, either for its employees or labor organization representatives.

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**Mr. Bradley Raymond**

**July 13, 2007**

**Page 2 of 2**

**I would be glad to discuss this issue in more depth if you desire. Moreover, to the extent that your opinion differs and you feel that you have supporting authority for your position, I would appreciate a copy of any such authority.**

**Thank you for your letter and please let me know if you have any questions.**

**Sincerely,**

**Mitchell Cogen  
Corporate Counsel**

**cc: Paul Hurd  
K.C. Hortop**

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