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March 26, 2010

FAX and regular mail

Michael J. Sullivan, General President  
Sheet Metal Workers' International Association  
1750 New York Ave., NW  
Washington, DC 20006  
FAX (202) 662-0894

Dear Mr. Sullivan:

This is in response to your March 25, 2010 letter to me, and similar letters of the same date I understand you have sent to other United Transportation Union ("UTU") officers, regarding the failed SMART merger. In your letters, you erroneously claim you are the General President of SMART, and as UTU officers we are subservient to you. Further, the Chairman of the National Railway Labor Conference ("NRLC") has sent me a copy of a letter you apparently sent to rail carriers arrogantly stating SMART now represents classes and crafts UTU is certified to represent under the Railway Labor Act ("RLA"), 45 U.S.C. § 151 *et seq.*, and that those carriers must send UTU dues withheld from wages pursuant to UTU dues check-off agreements to you. Obviously, we disagree with the content of all of your letters.

To begin with, as you know, there has never been a SMART Constitution published, and under Article II of the Merger Agreement, a SMART Constitution had to be approved by the UTU membership prior to the August 2007 UTU Convention. UTU members did not approve a SMART Constitution because it never existed. And a failure to so approve means the Merger Documents "shall be deemed terminated and of no force and effect" under the very terms of Article II. Other conditions precedent were not fulfilled as well.

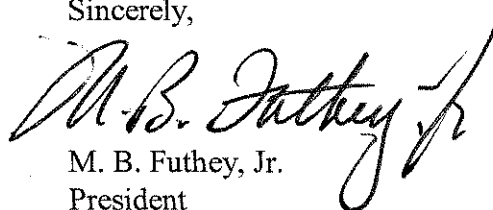
Beyond that, you know that the termination of the Akron litigation has nothing to do with enforcement of the merger because SMWIA has a suit pending in Washington, DC to enforce the merger, *SMWIA v. UTU*, D.D.C., Case No. 07-2230 (JR), which is in the pleading stage, and which UTU will vigorously defend. In fact, when UTU sought to transfer that case to Akron, your lawyers took great pains to explain to the court that the SMWIA enforcement case had nothing to do with the Akron case.

Moreover, the rail carriers all know of their continuing obligations under the RLA to observe the status quo with respect to UTU agreements [*see Detroit and Toledo Shore Line R.R. v. UTU*, 396 U.S. 142 (1969)] and to "treat with" UTU as the duly designated representative of crafts or classes on their properties [*see Virginian Ry. v. System Federation No. 40*, 300 U.S. 515 (1937)], and I fully

expect them to continue to fulfill those obligations. You will be held liable for any damage caused to the UTU and its membership by your unconscionable conduct interfering with UTU's representation and dues collection, and I expect you will cease and desist from such conduct. If you have sent letters to bus and transit companies or districts, I expect you to cease and desist from that activity as well. And you must cease and desist from your unauthorized use of the registered UTU logo.

Finally, your letters put the lie to your previous assurances that UTU would control its own collective bargaining post-merger. Up until now, you have been a wolf in sheep's clothing regarding this issue. Now the sheep's clothing is off, and we know you are trying to arrogate to yourself the collective bargaining representation of the UTU membership.

Sincerely,

A handwritten signature in cursive script that reads "M. B. Futhey, Jr." The signature is written in dark ink and is positioned above the printed name and title.

M. B. Futhey, Jr.  
President

cc: A. Martin, III, Assistant President  
All International Officers  
All General Chairpersons  
All State Legislative Directors  
All Local Presidents and Secretaries  
All Designated Legal Counsel  
A. Kenneth Gradia, Chairman-NRLC  
Keith Borman, VP and Gen. Counsel, American Short Line and  
Regional Railroad Ass'n