

December 23, 2005

Attorney General Elliot Spitzer
120 Broadway
New York City, NY 10271
Fax: 212-416-8139

[*Sent via facsimile and mail*]

Dear Attorney General Spitzer:

The purpose of this letter is to urge you to use the power granted to you by the laws of the State of New York - particularly the Taylor law - to ensure that the Transportation Workers Union Local 100 (TWU) officials are held fully liable for their flagrant violation of the law in their role in the recent illegal mass transit strike.

There is little doubt that TWU officials will seek amnesty for their illegal acts in the final settlement. Ordering illegal strikes and later negotiating amnesty is a well-documented union bargaining strategy that has rendered meaningless strike prohibitions in union monopoly bargaining statutes across America. You have a duty not to permit this to occur.

It is clear that the TWU and its officials broke the law by causing, instigating, encouraging and engaging in this illegal strike. *See McKinney's Civil Service Law* § 210(1). You are required by law to institute proceedings before the New York State Public Employment Relations Board (PERB) – if it does not do so on its own. The purpose of these proceedings is to determine formally whether TWU officials have violated this provision of the law. Because the TWU called the strike, I have no doubt that the PERB will find such a violation. *See id.*, § 210(3)(e).

Once this determination is formally made, there are additional penalties for the violation of this law. Accordingly, you should demand that the PERB order the immediate forfeiture of the TWU's special privilege to collect fees and dues from employees via signed deduction authorizations. *See id.*, § 210(3)(a) and (f). The affirmative language in this subdivision does not provide for selective enforcement of its provisions.

In fixing the duration of the forfeiture of the union's special privilege to collect forced dues via payroll deduction, the PERB should consider the TWU's blatant defiance

of the prohibition on strikes, as well as the strike's harmful impact on the economy and public safety.

Furthermore, you should encourage State Supreme Court Justice Theodore Jones to continue to hold TWU officials in contempt for their unashamed violation of his injunction order, and you should encourage enforcement and collection of all fines that he has already levied upon TWU officials as well as imprisonment of the union officials found in contempt.

In addition, you should urge Governor Pataki to determine through an investigation whether any of the TWU officials who caused, instigated, encouraged, or condoned this unlawful strike are public employees. Governor Pataki should terminate any such union officials from their employment with the State of New York, as provided for by law. § 210(2).

The TWU has violated State law in a brazen attempt to hold New York City hostage to its self-serving demands. The TWU has not only endangered the safety and economic well-being of millions of metro area workers and residents, but it has done so with a blatant disregard for the transit employees it purports to protect.

To allow the TWU officials to escape unscathed from their callous and selfish disdain for the law will have dire consequences for the future of labor relations in New York State and will invariably result in more illegal strikes.

Sincerely,

Mark Mix