UNITED TRANSPORTATION UNION

GENERAL COMMITTEE OF ADJUSTMENT
UNION PACIFIC WEST • CENTRAL CALIFORNIA TRACTION • STOCKTON TERMINAL & EASTERN
ALAMEDA BELT LINE • OAKLAND TERMINAL RAILROAD

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January 5, 2006

VIA FAX AND E-MAIL
Mr. A. C. Hallberg, UP Director Labor Relations
10031 Foothills Boulevard - Room 145
Roseville, CA 95747

Dear Mr. Hallberg:

This has reference to your correspondence of December 15, 2005, regarding adoption of proposed "companion" and "bypass" agreements on the territory under the jurisdiction of this office. In your letter, you state that the undersigned " . . . objected to the idea that an employee could be dismissed without an investigation", and went on to state that employees under the jurisdiction of this committee " . . . will be required to go the investigation/discipline route. They will not have access to any alternatives whatsoever."

Although you do not clearly state in your letter, it appears that your office has decided to deny rehabilitation to employees who are accused of drug and alcohol violations for the first time, and that your rationale for that decision is the absence of companion or bypass agreements with this committee. In your letter you reference parts of a conference held between the parties on November 30, 2005, but neglect to accurately present the position of this committee as set forth during that conference.

To begin, no companion or bypass agreement is necessary in order to allow employees access to rehabilitation. This committee has *never* been party to any such agreement, and your employees under our jurisdiction have successfully participated in and completed the company's rehabilitation program with positive results since the inception of drug testing in the 1980s.

Next, no companion or bypass agreement is necessary in order to dismiss an employee who fails to successfully complete the rehabilitation program. There is a long history of the company successfully terminating employees who have failed rehabilitation.

In fact, the *only* thing gained by the company in your proposals is the opportunity to dismiss an employee without an investigation. It was explained to you during our conference on November 30, 2005, that this committee is prohibited from signing any document that interferes with an employee's right to a hearing prior to being dismissed. That prohibition stems not only from arbitral precedent concerning our collective bargaining agreement, but also from a decision rendered in U. S. District Court (A decision which if studied may invalidate such provisions on other territories, as well).

As stated to you during conference and restated above, we do not have the authority to sign away an employee's right to a hearing prior to being dismissed. We are agreeable to executing an agreement with you along the lines of your proposals, absent the provision regarding the hearing. Please advise the undersigned If you are interested in moving forward.

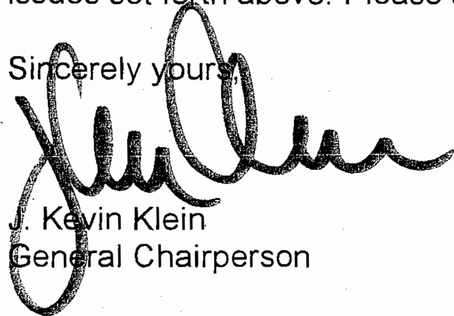
Before we close, we are compelled to comment on the penultimate paragraph of your December 15, 2005, letter, wherein you state "Everyone knows that rehabilitation is difficult, and that without the motivation of a last chance situation, the odds of success are compromised." While that is a statement with which no one will argue, it is in no way applicable to the situation before us. An employee's legal and contractual right to a hearing prior to being dismissed in no way diminishes the "last chance" status of the employee's situation. As previously stated, even without a companion or bypass agreement in place, employees under the jurisdiction of this committee who fail rehabilitation are routinely dismissed by the company.

Finally, it is noteworthy that the company's plan to deny rehabilitation to its employees working under the jurisdiction of this committee has a negative impact from a business perspective as well. Currently, the process permits a first-time occurrence to be handled without a hearing when the employee chooses to enter the rehabilitation program, and the vast majority of such cases are handled in this manner. After the company closes access to the program and denies rehabilitation a hearing will be required for each and every first-time charge, dramatically increasing the number of hearings and arbitrations from the current very low level. More importantly, each and every one of those hearings will most likely result in the dismissal of an employee that history shows would have been saved through participation in a successful rehabilitation program.

In closing, we ask that you reconsider your decision to deny rehabilitation to first-time offenders. That decision is not in the best interest of your company or its employees and will only serve to cast a chilling effect over the entire Rehab/Self-referral/ Co-worker referral/Redblock efforts under way by others in the company.

As previously stated, this office stands ready to work with you in a cooperative manner to resolve the issues set forth above. Please advise.

Sincerely yours,



J. Kevin Klein
General Chairperson

cc: All Local Chairpersons on this Committee
Mr. Dennis Duffy, UP EVP
Mr. Tom Jacobi, UP RVP Western Region
Mr. Tom Murphy, UP Assistant RVP Western Region
Mr. Ken Hunt, UP Assistant RVP Western Region
Mr. Rene Orosco, UP Assistant VP Labor Relations