

Second Report of the Baumann Monitoring Commission:

School Bus Workers' Right to a Contract at Baumann Bus

April 29, 2010

Baumann Monitoring Commission

The Baumann Monitoring Commission is a volunteer commission made up of community leaders including:

*William J. Lindsay, Presiding Officer,
Suffolk County Legislature*

*Luis Valenzuela, Executive Director,
Long Island Immigrant Alliance*

*Gregory DeFreitas, Professor,
Hofstra University*

*Father William Brisotti, Our Lady of Miraculous
Medal Roman Catholic Church*

*Nadia Marin Molina, Executive Director,
The Workplace Project*

This Monitoring Commission was established in the summer of 2009 as a result of extensive accounts of unethical and often illegal practices conducted by Baumann & Sons Buses, Inc. (herein referred to as “Baumann Bus”). Our first report—which was dated November 10, 2009—detailed many examples of Baumann’s unethical corporate behavior, including its extensive union busting techniques.

The Baumann Bus employees courageously and remarkably overcame the massive anti-union campaign of illegal threats and coercion, and overwhelmingly voted to be represented by Teamsters Local 1205. That election was conducted by the National Labor

“I fully support you in everything you are trying to achieve and we’ll do everything we can to help you get the contract you deserve.”

— Congressman
Tim Bishop (D-NY)

Relations Board (herein referred to as the “NLRB”) on November 20, 2009.

Now, more than five months after that election victory, it is clear—based on new evidence we have gathered—that Baumann Bus continues on its

outrageous path of violating the rights of its employees. In fact, the NLRB itself has concluded two investigations of charges against Baumann Bus, and issued a consolidated complaint (April 21), detailing many gross violations of labor law by the company, both *before and after the election*.^{*} According to the NLRB document, these violations include, but are not limited to, the fact that Baumann Bus has:

1. illegally threatened employees with discharge because they engaged in activities on behalf of the union;
2. illegally discharged two employees because they joined, supported, or assisted the union; and discharged them also in order to discourage other employees from engaging in such activities;

3. illegally directed its employees to remove union insignia from their clothing;
4. illegally discontinued paying certain employees wages for time spent fueling buses;
5. illegally interrogated employees about their union membership, activities and sympathies;
6. illegally threatened its employees with unspecified reprisals if they selected the union as their bargaining representative;
7. illegally threatened employees that their voting to have Local 1205 be their exclusive representative would cause the company to:
 - a. eliminate employees’ standby work; and
 - b. no longer do favors for employees.

Based on the conduct described above, the NLRB has determined and publicly stated that Baumann Bus:

1. has been interfering with, restraining and coercing employees in the exercise of the rights guaranteed in National Labor Relations Act (the Act);
2. has been discriminating in regard to the hire or tenure or terms and conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of the Act;
3. has failed and refused to bargain collectively and in good faith with the Union, and thereby has been engaging in unfair labor practices within the meaning of the Act.

More Bad Faith Bargaining

In addition, based on detailed reports from the union’s contract negotiating committee, Baumann Bus now appears to be illegally doing what is called “surface bargaining.” This means a company tries to appear to be bargaining in good faith, but is in fact just going through motions. The most overt evidence of this unfair and ugly practice of Baumann Bus is:

1. After 5 months of negotiations, Baumann Bus has yet to make one single economic proposal.

2. After 5 months of negotiations, Baumann Bus has not even yet responded to the union's economic proposals, other than saying the demands were "unreasonable."
3. Baumann Bus has elected to meet only on very few days and for very limited hours, despite the fact that the union committee has made itself available anytime, 7 days a week, 24 hours a day, since January.
4. Baumann Bus cancelled a number of the negotiations that had been scheduled.

Further, in an April 16, 2010 memo to its employees, Baumann Bus stated that it had lost a contract for the

*"I proudly support you!
You deserve your union
contract and without delay.
I'll do all I can to help
you. A strong labor
movement is part of what
makes this country great."*

— Congressman
Steve Israel (D-NY)

work it did with the William Floyd School District and, in the same memo, cautioned employees about the "union demands that would make our Company uncompetitive"—thereby insinuating that because of union demands, Baumann

Bus had lost and would lose work. But Baumann Bus has failed to state in the memo or elsewhere that *the competitor to whom it lost the bid was First Student Transit, a company that is 100% UNIONIZED ON LONG ISLAND and provides superior, union wages, benefits and working conditions.*

Moreover, at the negotiating table Baumann Bus denied the union committee's request to review the company's financial statements, a request the union made so that its accountants could verify the company's financial health. Baumann's attorneys added that they were *not* saying the company *couldn't afford* the union's proposed improvements to wages and benefits—they were only claiming that if the company agreed to those increases it would not remain "competitive."

Meanwhile, this bears repeating:

After 9 negotiation sessions, Baumann Bus has not made one single economic counter-offer to the union's economic proposals.

A Proposed Solution: As Described in the Employee Free Choice Act

Last year, a majority of both houses of Congress pledged support of a labor law reform bill titled Employee Free Choice Act (herein referred to as EFCA). The entire New York State Democratic Congressional Delegation voted in favor of it and co-sponsored it. Our State's two US Senators are strong supporters of the bill. Polls have shown it is supported by a majority of Americans. President Obama has pledged to sign it if the Senate can get it past the threatened Republican filibuster.

If EFCA had been law last year, Baumann employees would not have been subjected to their employer's terror techniques over the many months of their union election campaign. Further, Baumann Bus would now be faced with steep fines and other strong penalties for its illegal activities. And perhaps of greater importance to the Baumann workers and the communities they service is the fact that, under EFCA, they *now* would be working under a union contract.

"Our employer is doing all he can to delay agreeing to a contract and we are successfully organizing our co-workers to fight back. We're proudly asking for and getting the support of thousands of people in our communities, including in our schools and government."

— Martha Swiatkowski,
Westbury driver

EFCA mandates a legal mechanism which, four months after a union election victory, would oblige the parties to agree to a first contract through binding arbitration. Such arbitration is an alternative to workers' voting to take some form

of a job action, up to and including a strike action. That EFCA binding arbitration solution has been proposed to Baumann Bus by Teamsters Local 1205. *The Union's proposal for first contract arbitration has been rejected by Baumann Bus.*

It appears obvious that Baumann Bus wants to drag negotiations on, hoping to break the determination of the employees and rob them of the contract to which they are entitled. *We, leaders in our communities, have a right to speak on behalf of millions of fair-minded New Yorkers who are interested in economic justice, when we say: we must not let this happen!*

This Commission demands that Baumann Bus immediately do the following:

1. Cease and desist from “interfering with, restraining, and coercing employees in the exercise of” their rights guaranteed by the National Labor Relations Act.
2. Cease and desist in “fail[ing] and refus[ing] to bargain collectively and in good faith with the Union.”
3. Settle the Unfair Labor Practices complaint issued against the company by the NLRB, on terms acceptable to the NLRB and Teamsters Local 1205.
4. This would include reinstating the unjustly terminated employees, with back pay.
5. Agree to an expedited arbitration on terms outlined by EFCA, as a means of reaching a fair first contract and assuring labor peace.

The Commission pledges to continue monitoring this situation and to release its findings to all interested parties, including elected officials, public and private school officials, and the press.

“Baumann has drivers employed for more than 20 years making only \$10 and change an hour! They have school bus maintenance employees repairing vehicles that transport Long Island’s children, making \$9 per hour! There are Baumann employees with no electricity in their homes. These outrages shouldn’t go on for another minute. Every human being deserves a dignified wage, benefits, and to be treated with respect on the job.”

— Timothy Lynch, President,
Teamsters Local 1205

“I and nearly 1,800 of my co-workers fought for more than a year to achieve our election victory with Local 1205. Now our employer continues to spend unknown thousands of dollars trying to keep us from getting the justice we deserve through a strong Union contract. This bad faith bargaining should not be allowed.”

— Geri McCrae,
Coram driver

* UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD, REGION 29 ACME BUS CORP., BAUMANN & SONS BUSES, INC., BROOKSET BUS CORP., ALERT COACH LINES INC., a Single Employer and INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 1205 Case NOS. 29-CA-29784 & 29-CA-30150