

REPORT TO ALL MEMBERS OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

FROM: The Independent Disciplinary Officers
Hon. Barbara S. Jones
Hon. Joseph E. diGenova

DATED: June 1, 2017

I. INTRODUCTION

The following is Magazine Report 3 of the Independent Disciplinary Officers ("IDO") for 2017 regarding activities from April 1, 2017 through June 01, 2017 conducted pursuant to the Final Agreement and Order of February 17, 2015. This Report provides updates on four existing charges.

II. PROGRESS OF EXISTING MATTERS

A. FORMER LOCAL 186 OFFICERS WILLIAM ELDER AND DOUGLAS SAINT

On December 5, 2016, pursuant to Paragraphs 30 and 31 of the Final Agreement and Order, the Independent Investigations Officer ("IIO") issued a Charge Report to the IBT General President recommending that charges be filed against former Local 186 Secretary-Treasurer and Principal Officer William Elder ("Elder"), and former Local 186 President Douglas Saint ("Saint") for embezzlement of Union funds in violation of 29 U.S.C. §501(c), the permanent injunction in United States v. International Brotherhood of Teamsters and the IBT Constitution. In December 2015, they caused the Local to make over \$97,000 in unauthorized severance payments to themselves and two other former Local employees without a union purpose. The Report alleged that Elder and Saint engaged in embezzlement by causing the Local's money to be paid to them and others without authority and not for a union purpose.

On December 8, 2016, the IBT General President adopted and filed the charge. On January 10, 2017, the IBT General Counsel requested a 30-day extension of the 90-day period in which the processing of the charges needed to be completed. The IRO granted the adjournment request, which moved the deadline to April 4, 2017. On January 25, 2017, the IBT scheduled a hearing for February 16, 2017. On February 14, 2017, in response to notification that Mr. Elder's counsel had a court appearance scheduled for the date of the IBT hearing, the IRO granted an additional 60-day extension. On April 18, 2017, the IBT held the scheduled hearing, in Los Angeles, California.

On May 19, 2017, the IBT Hearing Panel found that the preponderance of the reliable evidence supported the charges against Elder and Saint. The Panel recommended that Elder and

Saint be barred from holding any office or employment with Local 186 or any other affiliate of the IBT for a period of five years, or until \$97,780.50 in restitution is paid in full, whichever occurs later. It further recommended that neither Local 186, the IBT, nor any IBT entities may pay Elder or Saint, nor may Elder and Saint accept any salary, gratuities, gifts, severance payments, allowances, consulting fees, benefits payments, or contributions, or other compensation of any kind, directly or indirectly, except that they may receive fully vested or accrued pension, vacation, or other benefits they have already earned under any existing plan or program. It further recommended that Elder and Saint be suspended from membership in Local 186 and the IBT for three years or until the restitution is paid, whichever is later.

On May 22, 2017, the General President adopted the Panel's findings and conclusions and reissued their recommendations as a decision of the General President. The decision is under review by the IRO.

B. ROME ALOISE, PRINCIPAL OFFICER OF LOCAL 853, SAN LEANDRO, CALIFORNIA, INTERNATIONAL VICE PRESIDENT, PRESIDENT OF JOINT COUNCIL 7

On February 10, 2016, the Independent Review Board issued a Report to the IBT General Executive Board recommending that charges be filed against Rome Aloise ("Aloise"), an International Vice President, President of Joint Council 7, and principal officer of Local 853, for requesting and receiving things of value from IBT employers in violation of 29 U.S.C. §186(b) and Article XIX, Section 7(b)(2), (11) and (13) of the IBT Constitution. It also recommended that Aloise be charged with violating Article XIX, Section 7(b)(1) and (2) and Article XIV, Section 3 of the IBT Constitution, violating Article IV, Section 6 of the Local 853 Bylaws and bringing reproach upon the IBT in violation of Article II, Section 2(a) of the IBT Constitution through allowing an ineligible person to obtain membership and entering into sham collective bargaining agreements with The GrandFund. It was also recommended that Aloise be charged with bringing reproach upon the IBT through a pattern of misconduct designed to prevent a fair officer election in Local 601, including using union resources to support a candidate and subvert her opponents in violation of 29 U.S.C. §481(g); attempting to deny members' LMRDA rights to free speech, to sue and to fair hearings; and breaching his fiduciary duties under 29 U.S.C. §501(a).

On February 23, 2016, General President Hoffa adopted and filed the charges. On March 18, 2016, the IBT scheduled a hearing for April 28, 2016. Subsequently, on March 31, 2016, the IBT requested the IRO grant an extension of the 90-day period in which to complete this matter. The IRO approved an extension to July 17, 2016. On April 7, 2016, the IBT issued a notice of new hearing dates in June 2016.

On May 25, 2016, the IDO received a letter from the IBT

regarding an indefinite postponement of the hearing because it was represented that the Department of Justice (“DOJ”) had informed Aloise that he was the target of a grand jury investigation. On May 26, 2016, the IRO denied an indefinite postponement for failure to show good cause.

On June 3, 2016, the IRO received a letter on behalf of the IBT stating that it was suspending the scheduled hearing on charges against Aloise until the conclusion of the DOJ’s criminal inquiry concerning him. In a letter dated July 18, 2016, which was the date when a completed action was to have been submitted to the IRO, the IRO found inadequate in the circumstances the Union’s actions, including its granting of a stay for an indefinite period of time. The IRO found the union had ignored a Second Circuit Court of Appeals decision that had found the General President’s Constitutional interpretation of Article XIX, Section 7(a) frivolous. The IRO directed the Union to complete a hearing and submit written findings to the IRO no later than September 15, 2016. The IRO also noted in that letter that failure of the Union to comply with that time table would constitute a second serious violation of the Final Order.

In an August 5, 2016 letter, the Union stated it would not convene a hearing on the Aloise charges. On August 9, 2016, the IRO sent a notice scheduling a de novo hearing for October 11, 2016. On September 13, 2016, Aloise’s counsel requested the IRO disqualify himself from the case. The IRO denied that request on September 27, 2016. On September 15, 2016, counsel for Aloise represented to the IRO that for health reasons he was not available for the October 11, 2016 hearing. On September 27, 2016, the IRO granted an adjournment of the hearing until November 30 because of counsel’s health issue. On October 11, 2016, the IRO, Benjamin R. Civiletti, submitted his resignation, for medical reasons, to USDC Judge Loretta A. Preska. On December 16, 2016, the Honorable Barbara S. Jones (Ret.) was appointed the new IRO.

On January 11, 2017, the IRO scheduled a de novo hearing. The hearing was held in San Francisco, California on March 14 and 16, 2017. The matter is pending decision before the IRO.

C. CHARLES BERTUCIO, MEMBER OF LOCAL 853, SAN LEANDRO, CALIFORNIA

On February 11, 2016, the Independent Review Board issued a Charge Report to the IBT General President recommending that a charge be filed against former Local 853 member Charles Bertucio (“Bertucio”) for bringing reproach upon the IBT and violating the IBT Constitution by knowingly engaging in a scheme to become and remain a member when he was not eligible, in violation of Article II, Section 2(a) and Article XIV, Section 3 and Article XIX, Section 7(b) (1) and (2) of the IBT Constitution. On February 18, 2016, IBT General President Hoffa adopted and filed the charges. On March 18, 2016, the IBT scheduled a hearing for April 21, 2016. On March 29, 2016, the IBT submitted to the IRO a proposed affi-

davit and agreement Bertucio signed. On April 26, 2016, the IRO did not approve the proposed agreement. Based upon a request from the IBT, the IRO approved an extension within which to complete the matter to August 30, 2016. The IBT scheduled a hearing for August 8, 2016.

On August 30, 2016, the General President issued a decision dismissing the charges against Bertucio. On October 26, 2016, the IRO found the IBT’s decision inadequate and requested a response from the IBT within 20 days as to the actions taken or planned to correct the identified deficiencies in the decision. On November 14, 2016, the IBT declined to correct the deficiencies in the decision. Upon review of the record, on January 25, 2017, the IRO found that the IBT’s action remained inadequate.

The IRO scheduled a de novo hearing for March 16, 2017. The hearing date was subsequently changed to April 19, 2017 in San Francisco. Prior to the hearing, the IRO received a Settlement Agreement signed by Bertucio. Under the terms of the Settlement, Bertucio agreed that for 20 years, he will not hold membership in the IBT or any IBT Entities; hold any employment, office, position or consulting or similar relationship, whether paid or unpaid, with any IBT Entities; accept any salary, allowance, fee or compensation of any kind from Local 853 or any other IBT Entities; accept any contributions on his behalf to any pension, health and welfare, severance or other benefit fund; or participate in any manner in any of the activities or affairs of the IBT and any IBT Entity relating to its governance, activities on behalf of its members, and collective bargaining. He further agreed that for five years, he will not hold any position on the Executive Committee of the James R. Hoffa Memorial Scholarship Fund, Inc. He further agreed that for one year, he will not knowingly associate with any officers, employees, or members of the IBT and any IBT entities. This prohibition includes social contact.

The IRO approved the Settlement Agreement on April 14, 2017, and thus cancelled the hearing.

D. WILLIAM C. SMITH, III, EXECUTIVE ASSISTANT TO THE IBT GENERAL PRESIDENT

On November 17, 2016, the IRO recommended to the General President that a charge be filed against IBT member and employee, William C. Smith, III (“Smith”), Executive Assistant to the General President, principal officer of Local 891 and Secretary-Treasurer of Joint Council 87, for accepting a thing of value from an employer of IBT members in violation of federal law, 29 U.S.C. §186(b), the permanent injunction in United States v. International Brotherhood of Teamsters, and the IBT Constitution, Article XIX, Sections 7(b)(2), (11) and (13). The report alleged that in January 2013, during contract negotiations between a local and an IBT employer in which International Vice President Aloise was participating, he solicited the IBT employer to obtain admissions for Smith and his companions to an exclusive non-public Super Bowl

party in New Orleans. These party admissions were things of value worth, at least, \$6,000. Smith knew Aloise requested the IBT employer to obtain the admissions for him. Smith received and used the admissions that the IBT employer obtained for him. The charge report alleged that Smith violated 29 U.S.C. §186(b), which prohibits an IBT employee from soliciting and receiving a thing of value from an IBT employer, and committed an act of racketeering in violation of the permanent injunction in the Consent Order.

On November 30, 2016, the IBT General President adopted and filed the Charge. On January 10, 2017, the IBT General Counsel requested a 90-day extension. On January 17, 2017, the IRO granted an extension to May 19, 2017. On March 21, 2017, the IBT held a hearing of the Charge.

On May 16, 2017, the IBT Hearing Panel found that the preponderance of the reliable evidence did not support the Charge against Smith and recommended it be dismissed, based on the Panel's conclusion that Smith did not believe the party admissions had value because he believed they were promotional items.

On May 17, 2017, the General President adopted the Panel's findings and conclusions and reissued its recommendation as a decision of the General President. The decision is under review by the IRO.

III. TOLL-FREE HOTLINE

The IDO hotline has received approximately 38 calls since April 1, 2017 reporting alleged improprieties. Activities which should be reported for investigation include, but are not limited to, association with organized crime, corruption, racketeering, embezzlement, extortion, assault, or failure to investigate any of these.

To ensure that all calls are treated confidentially, the system which records hotline calls is located in a secure area on a dedicated line in the Independent Investigations Office and accessed only by an Investigator. Please continue to use the toll-free hotline to report improprieties which fall within IIO jurisdiction by calling 1-800-CALL-472 (800-225-5472). If you are calling from within New York, NY, dial 212-600-1606.

IV. CONCLUSION

The task of the IDO is to ensure that the goals of the Final Agreement and Order are fulfilled. In doing so, it is our desire to keep the IBT membership fully informed about our activities through these reports. If you have any information concerning allegations of wrongdoing or corruption, you may call the toll-free hotline number, or write to the Independent Investigations Officer Hon. Joseph E. diGenova for all investigations at the following IIO office address:

Hon. Joseph E. diGenova
Office of the Independent Investigations Officer
17 Battery Place, Suite #331
New York, NY 10004