

## REPORT TO ALL MEMBERS OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

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

DATED: September 01, 2017

### I. INTRODUCTION

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

### 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 allegedly 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. On July 5, 2017, the IRO found the decision to be not inadequate and the matter is thus closed.

#### 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, 2017, 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 IIO filed his post-hearing brief on May 8, 2017. Aloise filed his post-hearing brief on June 16, 2017, and the IIO replied on June 30, 2017. The matter is pending decision before the IRO.

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

On November 17, 2016, the IIO 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 USC §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, Aloise 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 \$1,000 each. 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 ("Decision") of the General President.

On June 22, 2017, the IRO notified the General President that she found his decision to be inadequate for three reasons: (i) the Decision failed to adequately consider the proper legal standard (reasonable doubt versus preponderance of the evidence); (ii) the Decision failed to adequately consider that Smith knew the admissions were obtained through an IBT employer; and (iii) the decision failed to adequately consider that "promotional items" may be "things of value" under Section 186 and the IBT Constitution.

On June 27, 2017, in light of the IRO's finding, the General President remanded the matter to the Hearing Panel. On July 25, the General President adopted as his own the Panel's conclusion on reconsideration that "it has not been shown by a preponderance of reliable evidence that Brother Smith acted 'knowingly and willfully' as opposed to because of 'mistake, accident or inadvertence'" when he attended the

Super Bowl Party in 2013. Accordingly, the General President stood by the conclusion that the charge should be dismissed.

On August 22, 2017, the IRO notified the General President that in light of the deficiencies she identified in her June 22 letter, the July 25 Hearing Panel recommendation he adopted failed to remedy those deficiencies. The IRO scheduled a de novo hearing on the charge for November 8, 2017, at a location to be determined.

### **III. NEW MATTERS**

#### **A. FORMER JOINT COUNCIL 25 PRESIDENT AND LOCAL 727 SECRETARY TREASURER JOHN T. COLI, SR.**

On August 10, 2017, pursuant to Paragraphs 30 and 31 of the Final Agreement and Order, the IIO recommended to the General President that a charge be filed against former Joint Council 25 President and Local 727 Secretary Treasurer John T. Coli, Sr. ("Coli") for violating the IBT Constitution, Art. XIX Sec 7(b) 1, 2 and 14(a), by unreasonably failing to cooperate with the IIO by refusing to appear for his sworn examination on July 28, 2017. Among the matters about which the IIO intended to question Coli were his interactions with employees of vendors to the union and union funds and allegations of his receiving things of value from an IBT employer as reflected in a federal indictment for violating 18 U.S.C. §1951 and 29 U.S.C. §186. Coli also would have been questioned about other union matters, including the awarding of contracts to fund service providers and the funds' and the union's employment of his relatives.

The IIO reported to the General President that it appeared that, while an IBT member, Coli brought reproach upon the IBT and violated Article II, Section 2(a) and Article XIX, Sections 7(b) (1), (2), and 14(a) of the IBT Constitution by obstructing, interfering and unreasonably failing to cooperate with the duties of the IIO as set forth in the Final Agreement and Order.

The General President is currently reviewing the recommended charge. Pursuant to the ¶ 32 of the Final Order, the General President must file with the IRO written findings setting forth the specific action taken and the reason for such action within 90 days, or by November 8, 2017.

### **IV. TOLL-FREE HOTLINE**

The IDO hotline has received approximately 83 calls since June 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