

REPORT TO ALL MEMBERS OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

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

DATED: December 1, 2017

I. INTRODUCTION

The following is Magazine Report 5 of the Independent Disciplinary Officers ("IDO") for 2017 regarding activities from September 1, 2017 through December 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. 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 ("IRB") 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. The first charge that the IRB recommended be filed against Aloise was 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, for 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 June 3, 2016, the Independent Review Officer ("IRO") received a letter on behalf of the IBT stating that it was suspending the scheduled hearing on charges against Aloise

indefinitely. The IRO found inadequate in the circumstances the Union's actions. The IRO directed the Union to complete a hearing and submit written findings to the IRO no later than September 15, 2016.

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 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.

On October 24, 2017, the IRO issued a 60-page opinion finding that the evidence supported the charges against Aloise, and that Aloise brought reproach upon the union. She directed the IIO and Aloise, respectively, to submit memoranda regarding the appropriate discipline for Aloise.

On November 13, 2017, the IIO submitted his memorandum. Aloise's memorandum regarding the appropriate sanction is currently due Friday, December 1, 2017, the date of this Report. Following briefing, the IRO will issue a decision. Pursuant to the Final Order, Paragraph 35, the IRO's decision will be "final and binding and shall not be subject to further review under the IBT Constitution or to judicial review by [the] Court" other than as available under the Labor-Management Reporting and Disclosure Act of 1959 ("LMRDA").

B. 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 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, 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 allegedly knew that 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 23, 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 conducted a de novo hearing on the Charge on November 8, 2017, in Arlington, Virginia. The IRO ordered the IIO and counsel for Smith to submit post-hearing briefs (regarding both liability and any recommended sanction, should she find a violation) by no later than December 15 and December 25, respectively, with the IIO's reply brief due on January 5.

C. 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, Article XIX, Sections 7(b) (1), (2) and (14)(a), for 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 having received 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 recommended to the General President that Coli be charged with bringing reproach upon the IBT and violating 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 filed internal union charges against Coli on August 17, 2017. On October 24, 2017, the IRO granted the IBT's request for additional time to render a decision. A hearing on the charges is scheduled for December 11, 2017 in Rosemont, IL.

III. NEW MATTERS

A. FORMER LOCAL 831 MEMBER ANTHONY CASTELLE

On September 8, 2017, pursuant to Paragraphs 30 and 31 of the Final Agreement and Order, the IIO recommended to the General President that charges be filed against former Local 831 member Anthony Castelle for violating the IBT Constitution, Article II and Article XIX, Sections 7(b)(1), (2), (9) and (14)(a) by being a member of Organized Crime, and by unreasonably failing to cooperate with the IIO.

The IIO's investigative report included a Declaration from a Federal Bureau of Investigation ("FBI") Special Agent which stated that in the FBI's expert opinion Castelle is a member of the Luchese Organized Crime Family. The IIO's investigative report further detailed that he had properly noticed a sworn examination of Castelle pursuant to IIO Rules, Paragraph B (2) (b), for June 18, 2017. At that examination, Castelle would have been questioned about his associations with and membership in an Organized Crime family. Castelle failed to appear as scheduled. Castelle's attorney later faxed a letter to the IIO's office stating that Castelle had been

too ill to appear for his sworn examination that day. A second sworn examination was scheduled for August 2, 2017. On August 2, 2017, Castelle appeared for the examination, but after approximately five minutes, Castelle refused to answer further questions. On August 31, 2017, Castelle resigned from the IBT.

On September 13, the General President adopted and filed the charges. Following past practice under the Consent Decree, under which the IBT referred charges alleging association with Organized Crime back to the IRB for adjudication without first conducting its own internal hearing, the General President referred the charges against Castelle to the IDO for adjudication. A hearing is pending before the IRO at a date to be determined.

IV. TOLL-FREE HOTLINE

The IDO hotline has received approximately 42 calls since September 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