

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,)	
)	
<i>Plaintiff,</i>)	
v.)	No. 88 Civ. 4486 (LAP)
)	
INTERNATIONAL BROTHERHOOD OF)	
TEAMSTERS, <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	

**NOTICE OF JOINT MOTION FOR APPROVAL OF THE
FINAL AGREEMENT AND ORDER AND STIPULATION
OF DISMISSAL**

PLEASE TAKE NOTICE THAT, upon the accompanying Final Agreement and Order entered into between the United States of America and the International Brotherhood of Teamsters (collectively, the “Parties”), and the Joint Memorandum in Support of Approval of the Final Agreement and Order and Stipulation for Dismissal, the Parties will jointly move this Court before the Honorable Loretta A. Preska, United States District Chief Judge, for an order approving and entering the Final Agreement and Order and dismissing this action, subject to continuing Court jurisdiction, and for such further relief as the Court deems just.

PLEASE FURTHER TAKE NOTICE that any written comments on the Parties’ joint submissions are due on or before February 4, 2015, and a judicial hearing is scheduled on this

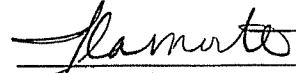
matter for February 11, 2015, at 11:00 a.m., before the Honorable Loretta A. Preska, 500 Pearl Street, Courtroom 12A, New York, New York, 10007.

Dated: New York, New York
January 14, 2015

**FOR PLAINTIFF UNITED STATES
OF AMERICA**

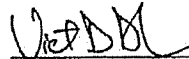
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, Plaintiff, -against- INTERNATIONAL BROTHERHOOD OF TEAMSTERS, et al., Defendants.

FINAL AGREEMENT AND ORDER
88 Civ. 4486 (LAP)

WHEREAS, on June 28, 1988, the United States of America (the “Government”) commenced this action seeking relief against the International Brotherhood of Teamsters (the “IBT” or “Union”) and others pursuant to the civil remedies provisions of the Racketeer Influenced and Corrupt Organizations (“RICO”) Act, 18 U.S.C. § 1964;

WHEREAS, on March 14, 1989, this Court approved a consent order that resolved the Government’s claims against the IBT defendants;

WHEREAS, the March 14, 1989 consent order has been clarified by agreement of the Parties and modified, both by agreement of the Parties and by Court order, as reflected in the document attached as Exhibit A to this order (the “Consent Decree”);

WHEREAS, the Government and the IBT (the “Parties”) entered into the Consent Decree with the objectives of ridding the IBT of any criminal element or organized crime and corruption and establishing a culture of democracy to maintain the Union for the sole benefit of its members;

WHEREAS, to achieve those objectives, the Consent Decree enjoined certain activity and instituted institutional reforms of the IBT’s disciplinary and electoral processes;

WHEREAS, the Parties agree that implementation of the disciplinary and electoral provisions of the Consent Decree has resulted in significant and positive change in the culture and processes of the IBT, and that there has been substantial progress towards achieving the objectives of the Consent Decree;

WHEREAS, the Parties agree that there has been significant success in eliminating corruption from within the IBT and in conducting free, open and democratic elections for its International Officers and Convention Delegates;

WHEREAS, the Parties recognize that, while substantial progress has been made under the Consent Decree, the threat posed to the IBT by organized crime and other corrupting influences, while substantially diminished, persists;

WHEREAS, the Parties acknowledge that, given the nature of the threat posed to the IBT by organized crime and other corrupting influences, continued vigilance is necessary to ensure that the objectives of the Consent Decree are achieved;

WHEREAS, by entering into this Final Agreement and Order (the "Final Order"), the Parties re-commit themselves to the original objectives of the Consent Decree, which remain the objectives of this Final Order;

WHEREAS, in addition to those objectives, the objectives of this Final Order are to reduce and ultimately eliminate the Government's role in the affairs of the IBT, except as otherwise expressly provided in this Final Order, while, at the same time, preserving the gains achieved by the Consent Decree; continuing to foster and promote democracy in the IBT through independent supervision of IBT elections; continuing the fight against criminal elements, organized crime, and corruption that threaten the IBT today; and preventing the re-emergence of

those elements of those criminal elements, organized crime and corruption that have been eliminated from the IBT;

WHEREAS, the parties agree that these objectives can best be achieved by implementation of this Final Order; and

WHEREAS, it is imperative that the IBT be maintained democratically, with integrity, for the sole benefit of its members, and without unlawful outside influence;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the Government and the IBT, as follows:

PERMANENT INJUNCTIONS

1. All permanent injunctions entered in this action shall survive the dismissal of this action and shall continue to be fully viable and effective.

2. All current and future members, officers, agents, representatives, employees, and persons holding positions of trust in the IBT and any of its constituent entities (collectively the “IBT” or “Union”) are permanently enjoined from:

- (A) committing any act of racketeering activity, as defined in 18 U.S.C. § 1961;
- (B) knowingly associating with any member or associate of any Organized Crime Family of La Cosa Nostra or any other criminal group;
- (C) knowingly associating with any person enjoined from participating in union affairs;
- (D) obstructing, or otherwise interfering, directly or indirectly, with the work of any person appointed to effectuate the terms of this Final Order; and
- (E) knowingly permitting any member or associate of any criminal group, or any person otherwise enjoined from participating in union affairs, to exercise any control or influence, directly or indirectly, in any way or degree, in the affairs of the IBT or any of its constituent entities.

As used in this Final Order, the term “constituent entities” shall include all existing and future Joint Councils, Local Unions, and other IBT entities subordinate to the IBT General Executive Board.

3. For purposes of this Final Order (and for purposes of any disciplinary action taken by the IBT pursuant to the IBT Constitution), the phrase “knowingly associate” shall have the same meaning under this Final Order as under the Consent Decree, as construed by the United States Court of Appeals for the Second Circuit and this Court.

4. For purposes of this Final Order (and for purposes of any disciplinary action taken by the IBT pursuant to the IBT Constitution), the phrase “otherwise enjoined from participating in union affairs” shall have the same meaning under this Final Order as under the Consent Decree, as construed by the United States Court of Appeals for the Second Circuit and this Court, and shall include any person who was permanently barred, who was permanently expelled, who permanently resigned, or who was otherwise permanently removed from membership in the IBT pursuant to, following, or in response to disciplinary charges instituted or recommended under the procedures enacted under the Consent Decree or under this Final Order and shall include, among others and in particular, all persons identified on the list attached to this Final Order as Exhibit B.

5. All persons who were enjoined from participating in union affairs under the Consent Decree, including all persons identified on Exhibit B to this Final Order, and all persons who are permanently enjoined from participating in union affairs under the mechanisms established by this Final Order, are permanently enjoined from knowingly associating with any member or employee of the IBT or any of its constituent entities.

JURISDICTION AND ENFORCEMENT

6. This Court shall retain exclusive jurisdiction to enter any lawful and appropriate order to deter, discover, determine, sanction, and remedy any violation of this Final Order. The Government shall have the authority to apply to this Court, upon notice to the IBT, for such process and such equitable orders and sanctions as are lawful and appropriate to deter, discover, determine, sanction, or remedy any violation of this Final Order. This Final Order shall bind all current and future members, officers, agents, representatives, and employees of the IBT and its constituent entities to the same extent and to the same degree as the Consent Decree bound such entities and individuals.

ALL WRITS INJUNCTION

7. Pursuant to 28 U.S.C. § 1651, the IBT and its constituent entities, and all members, officers, representatives, agents and employees of the IBT or any such IBT constituent entity, are permanently enjoined from filing or taking any legal action that implicates the Consent Decree or this Final Order in any court or forum in any jurisdiction other than this Court. Upon discovering that an action that implicates the Consent Decree or this Final Order has been filed in any forum other than this Court, the IBT shall promptly give notice to the United States Attorney for the Southern District of New York (the “United States Attorney”).

TRANSITION PERIOD

8. The Parties agree that, during the period (i) beginning on the effective date of this Final Order, and (ii) ending on the date five years following the effective date of this Final Order, (the “Transition Period”), the Government will relinquish its role in the affairs of the IBT, except as otherwise expressly provided in this Final Order, including its right under the Consent Decree and the IBT Constitution to elect Department of Labor Supervision of IBT elections and

its right to require the maintenance of the Independent Review Board (“IRB”), in exchange for the IBT’s commitment, as set forth in this Final Order, to establish and maintain effective and independent supervision of IBT International Union Officer and Convention Delegate elections and an effective and independent disciplinary mechanism.

9. During the Transition Period, the Government may apply to the Court, on notice to the IBT, for further equitable relief, including relief from its commitments and obligations under this Final Order and re-establishment of all obligations under the Consent Decree. On such application, the Government shall bear the burden of establishing, by a preponderance of the evidence, and without satisfying the standards and burdens set forth in Paragraph 48 of this Final Order or in Rule 60(b) of the Federal Rules of Civil Procedure, that the IBT has violated or has failed to satisfy its obligations under this Final Order promptly and in good faith, knowingly tolerated any violation of the injunctive provisions of this Final Order, or otherwise undermined or frustrated the terms and objectives of this Final Order.

INTERNATIONAL ELECTIONS

A. STRUCTURAL ELECTORAL REFORM

10. The Parties agree that the IBT will permanently retain the structural electoral reforms of the Consent Decree relating to the International Union Delegate and Officer Election, including without limitation, the one-Teamster, one vote, direct elections of IBT International Officers which were adopted by the IBT at the 2001 IBT Convention. Accordingly, the structural electoral reforms established by the Consent Decree, as set forth in Paragraph 12(D)(i)-(ix) of the Consent Decree, as amended, shall remain permanently in full force and effect. Moreover, for the election of International Officers that will be conducted during the Transition Period, the IBT shall not modify, amend, or eliminate any provision of the IBT Constitution that

concerns the elections of convention delegates and International officers and trustees - including any provision of Article III; Article IV; Article VI, Section 8; or Article IX, Section 7, of the 2011 IBT Constitution - without the written consent of the United States Attorney. After the Transition Period, the IBT shall not modify amend, or eliminate any provision of the IBT Constitution that concerns the elections of convention delegates and International officers and trustees - including any provision of Article III; Article IV; Article VI, Section 8; or Article IX, Section 7, of the 2011 IBT Constitution - without first providing written notice to the United States Attorney. In addition, two weeks prior to each IBT Convention, the IBT must provide notice to the United States Attorney of any proposed amendments to the IBT Constitution concerning the election of convention delegates and/or International Officers and Trustees. In the event the delegates to an IBT Convention adopt any proposed amendments to the IBT Constitution, the IBT shall notify the Government of any such amendments, and the Government may apply to the Court for an order nullifying any such amendments. On any such application, the Government shall bear the burden of establishing, by a preponderance of the evidence, that the proposed amendment(s) will prevent the election system from continuing to function or will cause it to function ineffectively or without adequate independence; or that the amendment(s) will deprive members of their reasonable opportunity to nominate candidates, hold office, vote for and otherwise support candidates of their choice.

11. The 5% nomination threshold for International Officers and Trustees, which was adopted at the 2001 Convention, shall be maintained for the International Officer elections in 2016 and 2021. With respect to any International Officer election following the 2021 election, any change by the democratically elected delegates or membership to the nomination threshold shall be subject to the Government's right to apply to the Court to nullify any such change. On

any such application, the Government shall bear the burden of establishing, by a preponderance of the evidence, that the proposed change(s) to the nominating threshold will prevent the election system from continuing to function or will cause it to function ineffectively or without adequate independence; or that the amendment(s) will deprive members of their reasonable opportunity to nominate candidates, hold office, vote for and otherwise support candidates of their choice.

B. INDEPENDENT ELECTION SUPERVISION

12. The Parties agree that every IBT International election occurring after the effective date of this Final Order shall be supervised by an Independent Election Supervisor appointed by the IBT in accordance with Article III, Section 5(a)(2), of the 2011 IBT Constitution, and in accordance with this Final Order. The Election Supervisor shall be empowered to employ such staff and other assistants as she/he deems appropriate.

13. The IBT shall establish and maintain standards sufficient to ensure that the Independent Election Supervisor appointed to supervise IBT International Officer elections after the effective date of this Final Order shall be experienced, effective, and completely independent of the IBT, and free from any actual or apparent conflict of interest. No individual may be appointed to the office of Independent Election Supervisor absent a reputation for honesty, integrity, impartiality, and independence. Barring exceptional circumstances, no individual may be appointed to the office of Independent Election Supervisor without substantial experience with union elections (desirable qualifications include knowledge of and experience with the mechanisms and procedures used in large scale elections, Title IV of the Labor Management Reporting and Disclosure Act and the IBT data systems) or law enforcement investigations, and a commitment to transparency in the election process. To the extent the Independent Election Supervisor lacks substantial experience with either union elections or law enforcement

investigations, his or her staff shall include a person or persons with such experience. No individual serving as the Independent Election Supervisor or any member of his or her staff may be a candidate for any delegate position or International office. No individual serving as the Independent Election Supervisor or any member of his or her staff may be affiliated with any candidate for any delegate position or International office. No individual serving as the Independent Election Supervisor or any member of his or her staff may be a member of the IBT, a present or former paid or non-paid appointee of any IBT entity, or an individual who has been an employee, representative, or agent of any IBT entity within the previous ten-year period, except as provided in paragraph 14.

14. Neither the IBT nor any of its constituent entities may employ or retain any individual who has served as an Independent Election Supervisor for a period lasting at least five years after certification of the election in which the individual served as the Independent Election Supervisor. This provision shall not, however, preclude the appointment of an individual who has served as the Independent Election Supervisor to supervise subsequent Local Union or International Union elections.

15. During the Transition Period, no individual may serve as the Independent Election Supervisor without the consent of the United States Attorney. After the Transition Period, the IBT may appoint an individual to serve as the Independent Election Supervisor without the consent of the United States Attorney, provided that the IBT provides notice to the United States Attorney within seven (7) days of any such appointment and that the Independent Election Supervisor satisfies all of the conditions, criteria, and qualifications for experience and independence set forth in the IBT Constitution and this Final Order. The United States Attorney may, however, challenge such an appointment upon showing, by a preponderance of the

evidence, that the Independent Election Supervisor does not satisfy all of the conditions, criteria, and qualifications for experience and independence set forth in the IBT Constitution and this Final Order.

C. ELECTION RULES

16. The Parties agree that every IBT International Officer election occurring after the effective date of this Final Order shall be conducted pursuant to rules and procedures designed to ensure a fair, free, and democratic election (the “Election Rules”). These rules and procedures shall permanently ensure that each election will be conducted by secret ballot and that every member shall have the right to vote for or otherwise support the candidate or candidates of his choice, without being subject to penalty, discipline or improper interference or reprisal of any kind by the Union or any member thereof. Notwithstanding any provision in paragraphs 17, 19, 20, and 21 regarding the adoption and modification of the Election Rules, the IBT shall not adopt or modify any Election Rules that have the purpose or effect of interfering with a member’s right to vote by secret ballot for the candidate or candidates of his choice, without being subject to penalty, discipline or improper interference or reprisal of any kind by the Union or any member thereof.

17. The IBT General Executive Board (the “GEB”) shall have the authority to adopt Election Rules to govern the election of Local Union delegates to any International Union Convention at which candidates for International Union office are nominated, and for the election of International Union officers. The Election Rules shall provide for the appointment by the GEB of an Independent Election Supervisor, who shall conduct and supervise such elections of delegates to the International Convention, the nomination of candidates for International office at the Convention, and the election of International officers.

18. Authority to interpret and enforce the Election Rules shall rest at all times both during and following the effective date of this Final Order, both during and after the Transition Period, exclusively with the Independent Election Supervisor duly appointed pursuant to the IBT Constitution and this Final Order, who shall endeavor at all times to consult with all interested parties, including the IBT, before interpreting or enforcing the Rules. In addition, the Election Supervisor shall also have authority to recommend Election Rules to the GEB for consideration.

19. During the Transition Period, and except as otherwise provided by this Final Order, the Election Rules adopted by the GEB shall not differ in any material way from the rules that governed the 2011 International Union and Delegate Election (the “2011 Election Rules”), as supplemented and amended, which were agreed upon by the Government and the IBT and approved by the Court. During the Transition Period, the Independent Election Supervisor may propose material amendments or changes to the 2011 Election Rules, but such material amendments or changes may be made only with the written consent of the Government and the IBT. In addition, during the Transition Period, the Independent Election Supervisor may, after consulting with all interested parties, including the IBT, make non-material changes to the 2011 Rules as necessary to tailor the rules to the new election cycle. For the International Officer elections commencing with the election in 2016, the Election Rules shall be amended, following notice and comment in accordance with the procedures followed for the 2006 and 2011 elections, to provide for a mailing funded by the Union in a single package of campaign materials from all nominated candidates to the current names and addresses that are on file for members in good standing. The mailing will occur in lieu of one issue of the IBT Magazine not less than one week prior to the date scheduled by the Election Office for the mailing of ballots. This amendment shall require that the mailing afford each nominated candidate a reasonable opportunity, equal to

that of any other candidate for the same office, to communicate his or her views to the membership. In addition, for the International Officer elections commencing with the election of 2016, the Election Rules shall be amended, following notice and comment in accordance with the procedures followed for the 2006 and 2011 elections, to provide reasonable measures for the IBT's accommodation of reasonable requests from candidates to communicate electronically with the membership. Such measures may include the steps set forth in Exhibit C to this Final Order. All Election Rules amendments made pursuant to this paragraph shall be made in accordance with paragraphs 16-21 of this Final Order.

20. After the Transition Period, the GEB shall promulgate Election Rules for succeeding election cycles which are substantially the same as those which governed the previous IBT elections but may make non-material changes as necessary to tailor the rules to a new election cycle. In promulgating Election Rules for elections conducted after the Transition Period, the GEB may also make material modifications to the provisions of the Election Rules used for preceding elections, provided that the changes are fully consistent with federal law, the IBT Constitution, and this Final Order, and provided that the Government is notified in writing of the changes prior to their implementation and provided that they are approved by the Independent Election Supervisor. Prior to submitting any proposed material modification to the Independent Election Supervisor, the GEB shall notify the IBT membership of the proposed change by posting the proposed modification on the homepage of the IBT's website, and provide IBT members with thirty (30) days to submit comments on the proposed modification. The Independent Election Supervisor may reject the modifications only if he or she determines, after consulting with all interested parties including the IBT, that the changes will prevent the election system from continuing to function or will cause it to function ineffectively or without adequate

independence; or that the amendment(s) will deprive members of their reasonable opportunity to nominate candidates, hold office, vote for and otherwise support candidates of their choice.

21. After the Transition Period, the IBT shall provide notice to the Government in advance of any material change it proposes to make to the Election Rules. Such notice shall be sufficiently in advance of the proposed effective date of the material change to afford the Government a reasonable time within which to apply to the Court for the relief set forth in this paragraph. With respect to any proposed changes to the Election Rules with which it disagrees, the Government may apply to the Court, on notice to the IBT, for an order disapproving the proposed change(s). On any such application, the Government shall bear the burden of establishing, by a preponderance of the evidence, that the proposed change will prevent the election system from continuing to function or will cause it to function ineffectively or without adequate independence; or that the amendment(s) will deprive members of their reasonable opportunity to nominate candidates, hold office, vote for and otherwise support candidates of their choice.

D. ELECTION REPORTS

22. Following certification of the results of each IBT election conducted after the effective date of this Final Order, the IBT shall solicit and make available to the membership a report by the Independent Election Supervisor, which shall report in detail on the results of the election (including the statistics reflecting voter turnout and the number of contested delegate elections), assess the successes and shortcomings of the election process, determine any positive and negative trends in comparison to prior election cycles, and recommend changes to the election rules to address any negative trends and enhance the democratic process. During and after the Transition Period, the IBT shall provide a copy of the Independent Election Supervisor's

report to the Government. During and after the Transition Period, the Independent Election Supervisor shall have the right to communicate with the membership concerning the IBT international election, including, for example, posting the election rules, any decisions on disputed matters, election results and logistical information.

E. ELECTION ACCESS ORDER

23. During the Transition Period, the presumptive right of access to employer property as set forth in the 2011 Election Rules shall be adopted, upon application of either party, as an order of this Court and fully enforceable by the Parties as against third parties to the extent permissible under the All Writs Act.

UNION DISCIPLINE

A. INDEPENDENT DISCIPLINARY SYSTEM

24. The IRB shall continue to operate for a period of one year following the effective date of this Final Order.

25. Following this one-year period, the IBT shall establish and permanently maintain an effective and independent disciplinary enforcement mechanism with ultimate authority to discipline IBT members and require compliance by the IBT with its Constitution and rules (the “independent disciplinary system”), to replace the IRB, as described herein. The independent disciplinary mechanism established by the IBT shall consist of one Independent Investigations Officer and one Independent Review Officer (collectively, the “IBT Disciplinary Officers”).

26. The IBT shall establish minimum qualifications for service as an IBT Disciplinary Officer, which qualifications shall be designed to ensure that each IBT Disciplinary Officer is experienced, effective, and completely independent of the IBT, and free from any actual or apparent conflict of interest. No individual may serve as an IBT Disciplinary Officer absent a

reputation for honesty, integrity, impartiality, and independence, and unless he or she is an attorney with substantial prior experience with enforcing labor laws or with governmental investigations, or has substantial prior experience as a federal or state judge. Current and former members and employees and agents of the IBT and its constituent entities shall be ineligible for appointment as IBT Disciplinary Officers.

27. The term of office of each IBT Disciplinary Officer shall be five years from the date of appointment, with the first appointments occurring one year following the effective date of this Final Order. At that time, the IRB will transfer pending disciplinary matters to the independent disciplinary mechanism, and/or refer pending disciplinary matters to appropriate law enforcement agencies. The IRB has sole discretion to determine which, if any, pending disciplinary matters and associated documents it will transfer to the independent disciplinary mechanism and/or refer to appropriate law enforcement agencies. Upon completing transfer or referral of any pending disciplinary matters it elects to transfer or refer, the authority of the IRB shall terminate. IBT Disciplinary Officers may not be removed from office during their terms absent good cause. If the IBT seeks to remove an IBT Disciplinary Officer for cause, it shall promptly provide notice to the United States Attorney of its intent to effect removal and the reason(s) therefore.

28. During the Transition Period, the IBT Disciplinary Officers shall be selected jointly by the United States and the IBT. The Court will retain authority to approve the Parties' joint selection, and/or resolve any disputes between the Parties concerning the selection. At the end of the five-year terms of the IBT Disciplinary Officers appointed during the Transition Period, the IBT General President may appoint an individual to serve as an IBT Disciplinary Officer without the consent of the United States Attorney, provided that the individual satisfies

all of the conditions, criteria, and qualifications for experience and independence set forth in the IBT Constitution and this Final Order, and further provided that the IBT provides advance notice to the United States Attorney of the individual the IBT has proposed to serve as an IBT Disciplinary Officer. Such notice shall be sufficiently in advance of the effective date of the IBT Disciplinary Officer's appointment to afford the Government a reasonable time to apply to the Court for an order disapproving the appointment on the ground that the individual fails to satisfy all of the conditions, criteria, and qualifications for experience and independence set forth in the IBT Constitution and this Final Order.

29. Each of the IBT Disciplinary Officers shall be empowered to employ such staff and other assistants as she/he deems appropriate, including, but not limited to, attorneys and individuals who are experienced in law enforcement investigations. All such staff shall be completely independent of the IBT.

30. The IBT Disciplinary Officers shall exercise such investigative and disciplinary authority as previously exercised by the IRB, as set forth in the Consent Decree and the rules and procedures governing the Independent Disciplinary Officers and their authorities (the "Disciplinary Rules") attached as Exhibit D to this Final Order, as well as the authority that the General President, General Secretary-Treasurer, and General Executive Board are authorized and empowered to exercise pursuant to the IBT Constitution, as well as any and all applicable provisions of law, including, without limitation, the authority to recommend disciplinary charges against IBT members, to review decisions by the Union with respect to recommended charges, to impose discipline, to review trusteeships imposed by the IBT over affiliates and to recommend trusteeships to be imposed by the IBT over affiliates, to review disciplinary decisions issued by the IBT General Executive Board and to review the IBT's audit records for affiliates and to

conduct their own audits of IBT entities. The Independent Investigations Officer shall also issue an annual report to the IBT and the United States Attorney addressing the functioning of the disciplinary system, the IBT's compliance with this Final Agreement and Order and any other matters he or she considers appropriate. During the first five-year term of office of the Independent Investigations Officer, as set forth in paragraph 27, consistent with the practice of the IRB, the Independent Investigations Officer shall be authorized to request that the Court issue subpoenas.

31. Upon completion of an investigation, and in the event the Independent Investigations Officer concludes that actions by the IBT or an affiliated body are warranted, the Independent Investigations Officer shall prepare a written investigation report detailing proposed charges and recommendations, concerning the discipline of IBT officers, members, employees, agents, and representatives, or concerning recommendations that any IBT affiliated body be placed in trusteeship.

32. In the event that the Independent Investigations Officer determines that discipline or a trusteeship should be imposed upon any member or constituent entity, the written report shall be referred to an appropriate Union entity for review, investigation or action within the authority of that entity. The Independent Investigations Officer may designate any such matter as an original jurisdiction case for the General President to review. Copies of all written referrals shall be sent to the General President and General Executive Board and, during the Transition Period, to the United States Attorney. The Union entity to which the matter has been referred shall promptly take whatever action is appropriate in the circumstances and shall, within ninety (90) days of the referral, make written findings setting forth the specific action taken and the reasons for that action. The Independent Review Officer may grant an extension of this ninety

(90) day period upon request for good cause. In the event that the Union entity files disciplinary charges based upon the referral, the Union shall act as the charging party. Appeals from actions taken by Union entities subordinate to the GEB may be filed with the Independent Review Officer.

33. The Independent Review Officer shall have authority to review IBT disciplinary decisions in matters referred by the Independent Investigations Officer. If the Independent Review Officer determines that the Union entity to which the matter has been referred has not pursued the matter in a lawful, responsible or timely manner, or that a decision is inadequate in the circumstances, the appropriate Union entity shall be notified and shall, within twenty (20) days set forth in writing any additional actions it has taken or will take to correct the defects set forth in the Independent Review Officer's notice. The Union entity shall, in addition, specify a timetable for such additional actions to be completed.

34. If the Independent Review Officer concludes that the Union entity has not responded or that the additional actions it has taken or will take are inadequate to remedy the defects previously identified, the Independent Review Officer shall convene a de novo hearing on the matter, giving adequate prior notice to all affected parties.

35. Hearings resulting from Independent Investigations Officer referrals before a Union entity shall be conducted under rules and procedures consistent with the requirements of Article XIX of the IBT Constitution and applicable law, except that the charged parties shall have the right to be represented by legal counsel, or by a fellow member of the Union, at their option. The Independent Review Officer shall issue a written decision with respect to any matter on which a hearing has been conducted before him/her. Hearings conducted before the Independent Review Officer shall be governed by the Disciplinary Rules, attached hereto as

Exhibit D. Decisions of the Independent Review Officer are final and binding and shall not be subject to further review under the IBT Constitution or to judicial review by this Court, provided, however, that nothing in this Final Order shall limit the right of any person or entity adversely affected to seek judicial review of union discipline to the extent such review is available under the Labor-Management Reporting and Disclosure Act of 1959 (“LMRDA”). In any such action, the Independent Disciplinary Officers are authorized, but are not required to, file papers in support of the decision of the Independent Review Officer. The appropriate IBT entity shall take all action which is necessary to implement the Independent Review Officer’s decision, consistent with the IBT Constitution and applicable federal laws.

36. Any proposed settlement of a charge referred by the Independent Investigations Officer, between the individual or Union entity charged and the IBT, is subject to approval by the Independent Review Officer. The Independent Investigations Officer, the individual or Union entity charged, and the IBT shall have the right to be heard by the Independent Review Officer in connection with his decision whether to approve a proposed settlement.

37. The IBT shall provide to the United States Attorney copies of all written reports issued by the Independent Investigations Officer throughout his or her first five-year term of office, and all decisions issued by the Independent Review Officer throughout his or her first five-year term of office. Any person or entity seeking judicial review of union discipline that is imposed, recommended or approved by the IRB, or by the IBT Disciplinary Officers during their first respective five-year terms of office, must file a petition with this Court. The IBT shall promptly provide notice to the United States Attorney of any lawsuit by any person or entity that challenges or seeks review of union discipline imposed, recommended or approved by the IRB, or by the IBT Disciplinary Officers during their first respective five-year terms of office.

38. During the Transition Period, the IBT may not make material changes to the independent disciplinary mechanism, or amend any provision of Article XIX of the IBT Constitution, absent the written consent of the United States Attorney or the approval of this Court. After the Transition Period, upon advance written notice to the Government, the IBT may make material changes to the independent disciplinary mechanism or amend Article XIX of the Constitution without the consent of the United States Attorney or the approval of this Court provided, however, that Government may apply to the Court, on notice to the IBT, for an order disapproving the material change or amendment. On any such application, the Government shall bear the burden of establishing, by a preponderance of the evidence, that the change or amendment is inconsistent with the terms and objectives of this Final Order or otherwise threatens to undermine the independence or effectiveness of the disciplinary mechanism. A change in the disciplinary mechanism shall presumptively undermine the independence and effectiveness of the disciplinary mechanism, and therefore be impermissible, if it results in a mechanism that is: (a) not staffed by persons completely independent of the IBT; (b) without ultimate and unfettered authority to investigate and sanction IBT members or its constituent entities for violations of the IBT Constitution and the permanent injunctive provisions of this Final Order, or (c) without ultimate and unfettered authority to investigate and compel compliance by the IBT with its Constitution and rules.

C. DISCIPLINARY RULES

39. The rules and procedures governing the IBT Disciplinary Officers and their authorities (“Disciplinary Rules”) are attached to this Final Order as Exhibit D.

40. During the Transition Period, the IBT make not make any material change to the Disciplinary Rules absent the written consent of the United States Attorney. After the Transition

Period, upon advance written notice to the Government, the IBT may make material changes to the Disciplinary Rules without the consent or approval of the United States Attorney, provided, however, that the Government may apply to the Court, on notice to the IBT, for an order disapproving any material change to the Disciplinary Rules. On any such application, the Government shall bear the burden of establishing, by a preponderance of the evidence that the change is inconsistent with the terms and objectives of this Final Order or otherwise threatens to undermine the independence or effectiveness of the independent disciplinary mechanism.

D. DISCIPLINARY REPORTS

41. The Independent Review Officer shall be responsible for preparing and distributing to the membership annual reports of the work of the IBT Disciplinary Officers, which reports shall include detailed descriptions of the disciplinary, trusteeship, compliance, and other actions taken by the IBT Disciplinary Officers during the preceding year, including a summary of the number and types charges referred by the Independent Investigations Officer, the disposition of those charges, and an analysis of those dispositions as compared with the dispositions of similar charges in previous years.

42. During and after the Transition Period, the IBT shall promptly provide copies of the annual disciplinary reports to the Government.

ADEQUATE FUNDING AND INDEMNIFICATION

43. The IBT shall pay all costs and expenses of, and provide suitable office space outside the premises of the IBT for, the Independent Election Supervisor, the IBT Disciplinary Officers, and their respective staffs. The IBT shall work cooperatively with the officers appointed pursuant to this Final Order to establish a budget for each office that is reasonable and adequate to ensure the effectiveness and independence of each officer. Any dispute regarding the adequacy of funding or other resources of all officers appointed by the IBT pursuant to this Final Order shall be resolved by the Independent Review Officer or, if such dispute cannot be resolved by such Independent Review Officer, by this Court.

44. The IBT shall purchase a policy of insurance in an appropriate amount to protect the Independent Election Supervisor, the IBT Disciplinary Officers, and any persons acting on their behalf from personal liability for any of their actions on behalf of the IBT, the Independent Election Supervisor, or the IBT Disciplinary Officers. If such insurance is not available, or if the IBT so elects, the IBT shall indemnify the Independent Election Supervisor, the IBT Disciplinary Officers, and persons acting on their behalf from any liability (or costs incurred to defend against the imposition of liability) for conduct taken pursuant to this Final Order. That indemnification shall not apply to conduct not taken pursuant to this Final Order. In addition, the Independent Election Supervisor, the Independent Disciplinary Officers, and any persons designated or hired by them to act on their behalf shall enjoy whatever exemptions from personal liability may exist under the law for court officers.

INTERNAL AUDIT AND FINANCIAL CONTROLS

45. The IBT's obligations under the Stipulation and Order entered December 28, 2001, concerning enhancements to the internal financial controls of the IBT are incorporated by

reference into this Final Order. The IBT shall maintain the enhancements to its internal financial controls implemented pursuant to the December 28, 2001 Stipulation and Order, and may modify such controls only with the approval of the independent accounting professional appointed pursuant to Article VIII, section 1, of the IBT Constitution. During the Transition Period, the IBT may not amend Article VIII, Section 1, of the IBT Constitution absent the written consent of the United States Attorney.

SUSPENSION OF INDICTED OFFICERS AND APPOINTEES

46. In the event any officer, agent, appointee, representative, or employee of the IBT or any of its constituent entities is criminally charged in any federal or state court with any act of racketeering, as that term is defined in 18 U.S.C. § 1961, or any felony relating to the conduct of the affairs of any labor organization or employee benefit or pension plan, the IBT General President, with the approval of the General Executive Board, or the General Executive Board acting on its own initiative, upon being informed about such charge, may immediately place the accused individual on temporary leave of absence without pay, may preclude such individual from holding any paid or non-paid position with the IBT or any of its constituent entities, and shall refer the matter to the Independent Investigations Officer for investigation and such other actions as he or she deems appropriate consistent with this Final Order. If the IBT does not place an individual charged with an offense described above on a temporary leave of absence without pay or preclude the individual from holding any paid or non-paid position with the IBT or any of its constituent entities, the IBT shall submit a report to the United States Attorney explaining its reasons.

IMPLEMENTATION OF THIS FINAL ORDER

47. The IBT agrees to take all actions to ensure its ability to lawfully comply with its obligations and commitments under this Final Order. The IBT shall not adopt any procedure, resolution, constitutional amendment, code of conduct, or other internal rule that is inconsistent with, or has the purpose or effect of undermining, the terms or objectives of this Final Order.

FURTHER EQUITABLE RELIEF

48. Except as otherwise expressly provided in this Final Order, the Government shall have no further role in the affairs of the IBT after the Transition Period, provided, however, that the Government may apply to the Court, on notice to the IBT, for an order seeking further equitable relief against the IBT. On any such application, the Government shall bear the burden of establishing, by a preponderance of the evidence, that: (a) the IBT has violated or failed to fully and effectively implement the terms of this Final Order; (b) the IBT's independent disciplinary mechanism has ceased to function or is functioning ineffectively or without adequate independence; (c) the IBT's electoral system has ceased to function or is functioning ineffectively or without adequate independence; or (d) there exists systemic corruption or organized crime influence in the IBT. Any of the preceding showings by the Government (i.e., (a) through (d)) shall automatically constitute evidence of an unforeseen obstacle to the objectives of this Final Order and a significant change in the facts upon which this Final Order was entered, and alone shall justify and warrant revision of this Final Order. Upon such a showing, the Court may modify this Final Order or award such equitable relief as the Court deems lawful and appropriate to bring the IBT into compliance with its obligations under this Final Order or to achieve the disciplinary and electoral objectives of this Final Order. A decision

by the Court on such an application may be appealed to the United States Court of Appeals for the Second Circuit.

CONTINUED VIABILITY OF CONSENT DECREE PRECEDENT

49. All matters of construction and interpretation of the Consent Decree, Election Rules, and obligations imposed upon members under the IBT Constitution shall continue to be governed by the decisional law established in this action by the Independent Administrator, the IRB, the Election Officers, the Election Administrator, the Election Appeals Masters, this Court, and the United States Court of Appeals for the Second Circuit. The IBT shall continue to make precedents established during the Consent Decree, and thereafter, available to the IBT membership through the IBT website or other means designed to afford similar access to the membership.

LIMITATIONS

50. Nothing in this Final Order shall: (a) prevent the United States or any of its agencies or individual agents from investigating the IBT or any person having any relation to this matter; or (b) prevent the United States from instituting a civil or criminal action against any person or entity in the future and, in doing so, relying on any evidence or materials utilized in preparation for this action, or re-alleging any of the allegations made in this action.

51. Nothing in this Final Order shall affect the validity or operation of any existing decrees or orders entered against the IBT or any of its entities in any action outside the Southern District of New York, including, without limitation, any decrees or orders entered in United States v. Local 282 of the IBT, CV-94-2919 (E.D.N.Y.); United States v. Local 295 et al., CV-90-970 (E.D.N.Y.); United States v. Private Sanitation Industry Ass'n et al. (IBT Local 813), CV89-1848 (E.D.N.Y.); United States v. Local 560, 82 Civ. 689 (D.N.J.); United States v. Bonanno

Organized Crime Family et al., Civ. No. 87-2974 (E.D.N.Y); and United States v. Vincent Gigante et al., Civ. No. 88-4396 (D.N.J.).

NOTICE

52. Whenever this Final Order obligates the IBT to give notice to the United States Attorney, such notice shall be in writing and sent to the United States Attorney's Office, Southern District of New York, 86 Chambers Street, 3rd Floor, New York, New York, 10007, attention: Chief, Civil Division, with an indication that the matter concerns United States v. IBT, 88 Civ. 4486 (LAP).

53. The IBT shall provide notice to the membership of the entry of this Final Order by publishing a copy of this Final Order (including all exhibits) on the IBT's website and printing the text of this Order (including Exhibit B only), in the next issue of the Teamster Magazine published after entry of this Final Order.

54. Contemporaneous with any appointment by the IBT of an Independent Election Supervisor or an IBT Disciplinary Officer in accordance with this Final Order, the IBT shall announce such appointment in the Teamster Magazine and on the home page of the IBT website. The announcement of such appointments shall provide sufficient information about the appointee to demonstrate that the appointee meets the qualifications for experience and independence set forth in the IBT Constitution and this Final Order.

1989 CONSENT DECREE

55. Upon the effective date of this Final Order, and except as provided in this Final Order, this Final Order shall supersede and replace the 1989 Consent Decree.

EFFECTIVE DATE

56. The effective date of this Final Order shall be the date on which it is signed by the

Court, and thereupon, this action shall be dismissed, subject to the provisions of this Final Order.

Dated: January 13, 2015

PREET BHARARA
United States Attorney for the
Southern District of New York

By: 

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INTERNATIONAL BROTHERHOOD OF TEAMSTERS

By: 

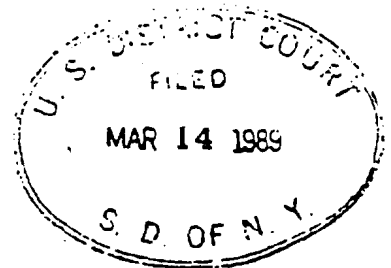
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SO ORDERED:

HON. LORETTA A. PRESKA
UNITED STATES DISTRICT JUDGE

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,
Plaintiff,

-v-

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, CHAUFFEURS,
WAREHOUSEMEN AND HELPERS
OF AMERICA, AFL-CIO, et al.,

Defendants.

ORDER

88 CIV. 4486 (DNE)

WHEREAS, plaintiff United States of America commenced this action on June 28, 1988, by filing a Complaint seeking equitable relief involving the International Brotherhood of Teamsters, AFL-CIO (hereinafter, "the IBT"), pursuant to the civil remedies provisions of the Racketeer Influenced and Corrupt Organizations ("RICO") Act, 18 U.S.C. § 1964; and

WHEREAS, the Summons and Complaint have been served, answers filed, and pretrial discovery commenced by and between the parties; and

WHEREAS, plaintiff United States of America and defendants IBT and its General Executive Board, William J. McCarthy, Weldon Mathis, Joseph Trerotola, Joseph W. Morgan, Edward M. Lawson, Arnold Weinmeister, Donald Peters, Walter J. Shea, Harold Friedman, Jack D. Cox, Don L. West, Michael J. Riley, Theodore Cozza and Daniel Ligurotis (hereinafter, the "union defendants") have consented to entry of this order; and

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3:00 PM

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WHEREAS, the union defendants acknowledge that there have been allegations, sworn testimony and judicial findings of past problems with La Cosa Nostra corruption of various elements of the IBT; and

WHEREAS, the union defendants agree that there should be no criminal element or La Cosa Nostra corruption of any part of the IBT; and

WHEREAS, the union defendants agree that it is imperative that the IBT, as the largest trade union in the free world, be maintained democratically, with integrity and for the sole benefit of its members and without unlawful outside influence;

IT IS HEREBY ORDERED AND DECREED That:

A. COURT JURISDICTION

1. This Court has jurisdiction over the subject matter of the action, has personal jurisdiction over the parties, and shall retain jurisdiction over this case until further order of the Court.

2. Upon satisfactory completion and implementation of the terms and conditions of this order, this Court shall entertain a joint motion of the parties hereto for entry of judgment dismissing this action with prejudice and without costs to either party.

B. DURATION

3. The authority of the court officers established in paragraph no. 12 herein shall terminate after the certification of the 1991 election results by the Election Officer for all IBT International Officers as provided in this Order, except as follows:

(1) The Election Officer and the Administrator shall have the authority to resolve all disputes concerning the conduct and/or results of the elections conducted in 1991 under the authority granted to them under paragraph 12(D) herein, and the Investigations Officer and the Administrator shall have the authority to investigate and discipline any corruption associated with the conduct and/or results of the elections to be conducted in 1991 under the authority granted them under paragraph 12(A) and (C) herein, so long as said investigation is begun within six months of the final balloting.

(2) The Investigations Officer and the Administrator shall have the authority to resolve to completion and decide all charges filed by the Investigations Officer on or before the date on which the authority granted to them under paragraphs 12(A) and (C) herein terminates the authority pursuant to subparagraph (3) below.

(3) The role and authority provided for in paragraphs 12 and 13 of this Order regarding the Investigations Officer and the Administrator and their relationship with the Independent Review Board shall terminate not later than nine (9) months after the certification of the 1991 election results.

(4) As used herein, the date referred to as "the certification of the 1991 election results" shall be construed to mean either the date upon which the Election Officer certifies the 1991 election results for all IBT International Officers or one month after the final balloting, whichever is shorter.

C. STATUS OF THE INDIVIDUAL UNION DEFENDANTS

4. The union defendants herein remain as officers of the IBT, subject to all of the terms herein, including the disciplinary authority of the Court-appointed officers, described in paragraph 12(A) herein.

D. CHANGES IN THE IBT CONSTITUTION

5. The portion of Section 6(a) of Article XIX of the IBT Constitution that provides, "Any charge based upon alleged conduct which occurred more than one (1) year prior to the filing of such charge is barred and shall be rejected by the Secretary-Treasurer, except charges based upon the non-payment of dues, assessment and other financial obligations," shall be and hereby is amended to provide for a five (5) year period, running from the discovery of the conduct giving rise to the charge. This limitation period shall not apply to any actions taken by the Investigations Officer or the Administrator.

6. Section 6(a) of Article XIX of the IBT Constitution shall be deemed and is hereby amended to include the following: "Nothing herein shall preclude the General President and/or General Executive Board from suspending a member or officer facing criminal or civil trial while the charges are pending."

7. Immediately after the conclusion of the IBT elections to be conducted in 1991, Section 8 of Article VI of the IBT Constitution shall be deemed and hereby is amended to provide that a special election be held whenever a vacancy occurs in the office of IBT General President, pursuant to the procedures described later herein for election of IBT General President.

8. Article IV, Section 2 of the IBT Constitution shall be deemed and is hereby amended to include a new paragraph as follows:

"No candidate for election shall accept or use any contributions or other things of value received from any employers, representative of an employer, foundation, trust or any similar entity. Nothing herein shall be interpreted to prohibit receipt of contributions from fellow employees and members of this International Union. Violation of this provision shall be grounds for removal from office."

9. (a) The IBT Constitution shall be deemed and hereby is amended to incorporate and conform with all of the terms set forth in this order.

(b) By no later than the conclusion of the IBT convention to be held in 1991, the IBT shall have formally amended the IBT Constitution to incorporate and conform with all of the terms set forth in this order by presenting said terms to the delegates for a

vote. If the IBT has not formally so amended the IBT Constitution by that date, the Government retains the right to seek any appropriate action, including enforcement of this order, contempt or reopening this litigation.

E. PERMANENT INJUNCTION

10. Defendants William J. McCarthy, Weldon Mathis, Joseph Trerotola, Joseph W. Morgan, Edward M. Lawson, Arnold Weinmeister, Donald Peters, Walter J. Shea, Harold Friedman, Jack D. Cox, Don L. West, Michael J. Riley, Theodore Cozza and Daniel Ligurotis, as well as any other or future IBT General Executive Board members, officers, representatives, members and employees of the IBT, are hereby permanently enjoined from committing any acts of racketeering activity, as defined in 18 U.S.C. § 1961 et seq., and from knowingly associating with any member or associate of the Colombo Organized Crime Family of La Cosa Nostra, the Genovese Organized Crime Family of La Cosa Nostra, the Gambino Organized Crime Family of La Cosa Nostra, the Lucchese Organized Crime Family of La Cosa Nostra, the Bonnano Organized Crime Family of La Cosa Nostra, any other Organized Crime Families of La Cosa Nostra or any other criminal group, or any person otherwise enjoined from participating in union affairs, and from obstructing or otherwise interfering with the work of the court-appointed officers or the Independent Review Board described herein.

11. As used herein, the term, "knowingly associating," shall have the same meaning as that ascribed to that term in the context of comparable federal proceedings or federal rules and regulations.

F. COURT-APPOINTED OFFICERS

12. The Court shall appoint three (3) officers -- an Independent Administrator, an Investigations Officer and an Election Officer -- to be identified and proposed by the Government and the union defendants, to oversee certain operations of the IBT as described herein. The parties shall jointly propose to the Court at least two persons for each of these three positions. Such proposal shall be presented to the Court within four weeks of the date of the entry of this Order, except that for good cause shown such period may be extended by the Court. Except as otherwise provided herein, the duties of those three officers shall be the following:

(A) DISCIPLINARY AUTHORITY -- From the date of the Administrator's appointment until the termination of the Administrator's authority as set forth in paragraph 3(3) herein, the Administrator shall have the same rights and powers as the IBT's General President and/or General Executive Board under the IBT's Constitution (including Articles VI and XIX thereof) and Title 29 of the United States Code to discharge those duties which relate to: disciplining corrupt or dishonest officers, agents, employees or

members of the IBT or any of its affiliated entities (such as IBT Locals, Joint Councils and Area Conferences), and appointing temporary trustees to run the affairs of any such affiliated entities. The Investigations Officer shall have the authority to investigate the operation of the IBT or any of its affiliates and, with cause,

(i) To initiate disciplinary charges against any officer, member or employee of the IBT or any of its affiliates in the manner specified for members under the IBT Constitution and,

(ii) To institute trusteeship proceedings for the purpose and in the manner specified in the IBT Constitution.

Prior to instituting any trusteeship proceeding the Investigations Officer shall notify the General President of the Investigations Officer's plan to institute said trusteeship proceeding and the basis therefor and give the General President ten (10) days to exercise his authority pursuant to the IBT Constitution to institute such trusteeship proceedings. If the General President timely institutes such proceedings and/or a trusteeship is imposed, the Investigations Officer and the Administrator shall have authority to review any action thus taken by the General President and/or any trusteeship imposed thereafter and to modify any aspect of either of the above at any time and in any manner consistent with applicable federal law. If the General President fails to institute trusteeship

proceedings within the ten-day period prescribed herein, the Investigations Officer may immediately proceed in accordance with the authority specified above.

When the Investigations Officer files charges, the following procedures shall be observed:

(a) the Investigations Officer shall serve written specific charges upon the person charged;

(b) the person charged shall have at least thirty (30) days prior to hearing to prepare his or her defense;

(c) a fair and impartial hearing shall be conducted before the Administrator;

(d) the person charged may be represented by an IBT member at the hearing; and

(e) the hearing shall be conducted under the rules and procedures generally applicable to labor arbitration hearings.

The Administrator shall preside at hearings in such cases and decide such cases using a "just cause" standard. The Investigations Officer shall present evidence at such hearings. As to decisions of the IBT General Executive Board on disciplinary charges and trusteeship proceedings during the Administrator's tenure, the Administrator shall review all such decisions, with the right to affirm, modify or reverse such decisions and, with respect to trusteeship proceedings, to exercise the authority granted above in this paragraph. Any decision of the Administrator shall be final

and binding, subject to the Court's review as provided herein. For a period of up to fourteen (14) days after the Administrator's decision, any person charged or entity placed in trusteeship adversely affected by the decision shall have the right to seek review by this Court of the Administrator's decision. The Administrator shall also have the right to establish and disseminate new guidelines for investigation and discipline of corruption within the IBT. All of the above actions of the Administrator and Investigations Officer shall be in compliance with applicable Federal laws and regulations.

(B) REVIEW AUTHORITY -- From the date of the Administrator's appointment until the certification of the IBT elections to be conducted in 1991, the Administrator shall have the authority to veto whenever the Administrator reasonably believes that any of the actions or proposed actions listed below constitutes or furthers an act of racketeering activity within the definition of Title 18 U.S.C. §1961, or furthers or contributes to the association directly, or indirectly, of the IBT or any of its members with the LCN or elements thereof:

(i) any expenditures or proposed expenditure of International Union funds or transfer of International Union property approved by any officers, agents, representatives or employees of the IBT,

(ii) any contract or proposed contract on behalf of the International Union, other than collective bargaining agreements, and

(iii) any appointment or proposed appointments to International Union office of any officer, agent, representative or employee of the IBT.

In any case where the Administrator exercises veto authority, the action or proposed action shall not go forward. The Administrator, upon request of the IBT's General President or General Executive Board, shall, within three (3) days, advise the IBT's General President and/or General Executive Board whichever is applicable, of the reasons for any such veto. For a period of up to fourteen (14) days after the Administrator's decision, the IBT's President and/or General Executive Board shall have the right to seek review by this Court of the Administrator's decision. The Administrator may prescribe any reasonable mechanism or procedure to provide for the Administrator's review of actions or proposed actions by the IBT, and every officer, agent, representative or employee of the IBT shall comply with such mechanism or procedure.

(C) ACCESS TO INFORMATION -- (i) The Investigations Officer shall have the authority to take such reasonable steps that are lawful and necessary in order to be fully informed about the activities of the IBT in accordance with the procedures as herein established. The Investigations Officer shall have the right:

(a) To examine books and records of the IBT and its affiliates, provided the entity to be examined receives three (3) business days advance notice in writing, and said entity has the right to have its representatives present during said examination.

(b) To attend meetings or portions of meetings of the General Executive Board relating in any way to any of the officer's rights or duties as set forth in this Order, provided that prior to any such meeting, the officer shall receive an agenda for the meeting and then give notice to the General President of the officer's anticipated attendance.

(c) To take and require sworn statements or sworn in-person examinations of any officer, member, or employee of the IBT provided the Investigations Officer has reasonable cause to take such a statement and provided further that the person to be examined receives at least ten (10) days advance notice in writing and also has the right to be represented by an IBT member or legal counsel of his or her own choosing, during the course of said examination.

(d) To take, upon notice and application for cause made to this Court, which shall include affidavits in support thereto, and the opportunity for rebuttal affidavits, the sworn statements or sworn in person examination of persons who are agents of the IBT (and not covered in subparagraph (c) above).

(e) To retain an independent auditor to perform audits upon the books and records of the IBT or any of its affiliated

entities (not including benefit funds subject to ERISA), provided said entity receives three (3) business days advance notice in writing and said entity has the right to have its representatives present during the conduct of said audit.

(ii) The Independent Administrator and the Election Officer shall have the same rights as the Investigations Officer as provided in sections (a), (b), (c) and (d) of A, herein.

(iii) The Independent Administrator, Investigations Officer and Election Officer shall each be provided with suitable office space at the IBT headquarters in Washington, D.C.

D. IBT ELECTION -- The IBT Constitution shall be deemed amended, and is hereby amended, to provide for the following new election procedures:

(i) The procedures described herein shall apply to elections of the IBT's General President, General Secretary-Treasurer, International Union Vice Presidents, and International Union Trustees;

(ii) Delegates to the IBT International convention at which any International Union officers are nominated or elected shall be chosen by direct rank-and-file secret balloting shortly before the convention (but not more than six months before the convention, except for those delegates elected at local union elections scheduled

to be held in the fall of 1990), and with all convention Candidate election voting by secret ballot of each delegate individually;

(iii) Delegates shall nominate candidates for eleven (11) Regional Vice Presidents, as follows: Three (3) from the Eastern Conference, three (3) from the Central Conference, two (2) from the Southern Conference, two (2) from the Western Conference, and one (1) from the Canadian Conference. In addition, there shall be nominated candidates for five (5) Vice Presidents to be elected at large. All duly nominated Vice Presidents shall stand for election conducted at local unions on the same ballot and time as the election of General President and General Secretary-Treasurer, as provided herein;

(iv) At such an International convention, after the nomination of International Union Vice Presidents and election of Trustees, all delegates shall then vote for nominees for the offices of IBT General President and Secretary-Treasurer;

(v) To qualify for the ballot for the direct rank-and-file voting for IBT General President, Secretary-Treasurer, and Vice President, candidates must receive at least five (5) percent of the delegate votes at the International convention, for the at large position, or by conference for regional positions, as the case may be;

(vi) No person on the ballot for the position of IBT General President may appear on the ballot in the same election year

for the position of Secretary-Treasurer; and further no member shall be a candidate for more than one (1) Vice President position;

(vii) No less than four (4) months and no more than six (6) months after the International convention at which candidates were nominated, the IBT General President, General Secretary-Treasurer and Vice Presidents shall be elected by direct rank-and-file voting by secret ballot in unionwide, one-member, one-vote elections for each at large position, and conference wide, one-member one-vote elections for each regional position;

(viii) All direct rank-and-file voting by secret ballot described above shall be by in-person ballot box voting at local unions or absentee ballot procedures where necessary, in accordance with Department of Labor regulations; and

(ix) The current procedures under the IBT Constitution for filling a vacancy between elections in the office of General Secretary-Treasurer, International Trustee, and International Vice President shall remain in effect.

The Election Officer shall supervise the IBT election described above to be conducted in 1991 and any special IBT elections that occur prior to the IBT elections to be conducted in 1991. In advance of each election, the Election Officer shall have the right to distribute materials about the election to the IBT membership. The Election Officer shall supervise the balloting process and certify the election results for each of these elections as promptly

as possible after the balloting. Any disputes about the conduct and/or results of elections shall be resolved after hearing by the Administrator.

The union defendants consent to the Election Officer, at Government expense, to supervise the 1996 IBT elections. The union defendants further consent to the U.S. Department of Labor supervising any IBT elections or special elections to be conducted after 1991 for the office of the IBT General President, IBT General Secretary-Treasurer, IBT Vice President, and IBT Trustee.

At the IBT 1991 International Convention, the delegates shall be presented with these aforesaid amendments for vote; provided further that nothing herein shall be deemed or interpreted or applied to abridge the Landrum-Griffin free speech right of any IBT officer, delegate or member, including the parties hereto.

(E) REPORTS TO MEMBERSHIP -- The Administrator shall have the authority to distribute materials at reasonable times to the membership of the IBT about the Administrator's activities. The reasonable cost of distribution of these materials shall be borne by the IBT. Moreover, the Administrator shall have the authority to publish a report in each issue of the International Teamster concerning the activities of the Administrator, Investigations Officer and Election Officer.

(F) REPORTS TO THE COURT -- The Administrator shall report to the Court whenever the Administrator sees fit but, in any

event, shall file with the Court a written report every three (3) months about the activities of the Administrator, Investigations Officer and Election Officer. A copy of all reports to the Court by the Administrator shall be served on plaintiff United States of America, the IBT's General President and duly designated IBT counsel.

(G) HIRING AUTHORITY -- The Administrator, the Investigations Officer and the Election Officer shall have the authority to employ accountants, consultants, experts, investigators or any other personnel necessary to assist in the proper discharge of their duties. Moreover, they shall have the authority to designate persons of their choosing to act on their behalf in performing any of their duties, as outlined in subparagraphs above. Whenever any of them wish to designate a person to act on their behalf, they shall give prior written notice of the designation to plaintiff United States of America, and the IBT's General President; and those parties shall then have the right, within fourteen (14) days of receipt of notice, to seek review by this Court of the designation, which shall otherwise take effect fourteen (14) days after receipt of notice.

(H) COMPENSATION AND EXPENSES -- The compensation and expenses of the Administrator, the Investigations Officer and the Election Officer (and any designee or persons hired by them) shall be paid by the IBT. Moreover, all costs associated with the activities of these three officials (and any designee or persons hired by them)

shall be paid by the IBT. The Administrator, Investigations Officer and Election Officer shall file with the Court (and serve on plaintiff United States of America and the IBT's General President and designated IBT counsel) an application, including an itemized bill, with supporting material, for their services and expenses once every three months. The IBT's General President shall then have fourteen (14) business days following receipt of the above in which to contest the bill before this Court. If the IBT's President fails to contest such a bill within that 14-day period, the IBT shall be obligated to pay the bill. In all disputes concerning the reasonableness of the level or amount of compensation or expense to be paid, the Court and parties shall be guided by the level of payment as authorized and approved by the IBT for the payment of similar services and expenses.

(I) APPLICATION TO THE COURT -- The Administrator may make any application to the Court that the Administrator deems warranted. Upon making any application to the Court, the Administrator shall give prior notice to plaintiff United States of America, the IBT's General President and designated IBT counsel and shall serve any submissions filed with the Court on plaintiff United States of America, the IBT's General President and designated IBT counsel. Nothing herein shall be construed as authorizing the parties or the Court-appointed officers to modify, change or amend the terms of this Order.

G. INDEPENDENT REVIEW BOARD

Following the certification of the 1991 election results, there shall be established an Independent Review Board, (hereinafter, referred to as the "Review Board"). Said Board shall consist of three members, one chosen by the Attorney General of the United States, one chosen by the IBT and a third person chosen by the Attorney General's designee and the IBT's designee. In the event of a vacancy, the replacement shall be selected in the same manner as the person who is being replaced was selected.

(a) The Independent Review Board shall be authorized to hire a sufficient staff of investigators and attorneys to investigate adequately (1) any allegations of corruption, including bribery, embezzlement, extortion, loan sharking, violation of 29 U.S.C. §530 of the Landrum Griffin Act, Taft-Hartley Criminal violations or Hobbs Act violations, or (2) any allegations of domination or control or influence of any IBT affiliate, member or representative by La Cosa Nostra or any other organized crime entity or group, or (3) any failure to cooperate fully with the Independent Review Board in any investigation of the foregoing.

(b) The Independent Review Board shall exercise such investigative authority as the General President and General Secretary-Treasurer are presently authorized and empowered to exercise pursuant to the IBT Constitution, as well as any and all applicable provisions of law.

(c) All officers, members, employees and representatives of the IBT and its affiliated bodies shall cooperate fully with the Independent Review Board in the course of any investigation or proceeding undertaken by it. Unreasonable failure to cooperate with the Independent Review Board shall be deemed to be conduct which brings reproach upon the IBT and which is thereby within the Independent Review Board's investigatory and decisional authority.

(d) Upon completion of an investigation, the Independent Review Board shall issue a written report detailing its findings, charges, and recommendations concerning the discipline of union officers, members, employees, and representatives and concerning the placing in trusteeship of any IBT subordinate body. Such written reports shall be available during business hours for public inspection at the IBT office in Washington, D.C.

(e) Any findings, charges, or recommendations of the Independent Review Board regarding discipline or trusteeship matters shall be submitted in writing to an appropriate IBT entity (including designating a matter as an original jurisdiction case for General Executive Board review), with a copy sent to the General President and General Executive Board. The IBT entity to which a matter is referred shall thereupon promptly take whatever action is appropriate under the circumstances, as provided by the IBT Constitution and applicable law. Within 90 days of the referral, that IBT entity must

make written findings setting forth the specific action taken and the reasons for that action.

(f) The Independent Review Board shall monitor all matters which it has referred for action if, in its sole judgment, a matter has not been pursued and decided by the IBT entity to which the matter has been referred in a lawful, responsible, or timely manner, or that the resolution proposed by the relevant IBT entity is inadequate under the circumstances, the Independent Review Board shall notify the IBT affiliate involved of its view, and the reasons therefor. A copy of said notice shall be sent by the Independent Review Board, to the General President and the General Executive Board.

(g) Within 10 days of the notice described in paragraph (f) above, the IBT entity involved shall set forth in writing any and all additional actions it has taken and/or will take to correct the defects set forth in said notice and a deadline by which said action may be completed. Immediately thereafter, the Independent Review Board shall issue a written determination concerning the adequacy of the additional action taken and/or proposed by the IBT entity involved. If the Independent Review Board concludes that the IBT entity involved has failed to take or propose satisfactory action to remedy the defects specified by the Independent Review Board's notice, the Independent Review Board shall promptly convene a hearing, after notice to all affected parties. All parties shall be

permitted to present any facts, evidence, or testimony which is relevant to the issue before the Independent Review Board . Any such hearing shall be conducted under the rules and procedures generally applicable to labor arbitration hearings.

(h) After a fair hearing has been conducted, the Independent Review Board shall issue a written decision which shall be sent to the General President, each member of the General Executive Board, and all affected parties.

(i) The decision of the Independent Review Board shall be final and binding, and the General Executive Board shall take all action which is necessary to implement said decision, consistent with the IBT Constitution and applicable Federal laws.

(j) The Independent Review Board shall have the right to examine and review the General Executive Board's implementation of the Independent Review Board's decisions; in the event the Independent Review Board is dissatisfied with the General Executive Board's implementation of any of its decisions, the Independent Review Board shall have the authority to take whatever steps are appropriate to insure proper implementation of any such decision.

(k) The Independent Review Board shall be apprised of and have the authority to review any disciplinary or trusteeship decision of the General Executive Board, and shall have the right to affirm, modify, or reverse any such decision. The Independent Review Board's

affirmance, modification, or reversal of any such General Executive Board decision shall be in writing and final and binding.

(l) The IBT shall pay all costs and expenses of the Independent Review Board and its staff (including all salaries of Review Board members and staff). Invoices for all such costs and expense shall be directed to the General President for payment.

(m) The Investigations Officer and the Administrator shall continue to exercise the investigatory and disciplinary authority set forth in paragraph 12 above for the limited period set forth in paragraph 3(3) above, provided, however, that the Investigations Officer and the Administrator may, instead, refer any such investigation or disciplinary matter to the Independent Review Board.

(n) The IBT Constitution shall be deemed and hereby is amended to incorporate all of the terms relating to the Independent Review Board set forth above in this paragraph. This amendment shall be presented to the delegates to the 1991 Convention for vote.

H. INDEMNIFICATION

13. The IBT shall purchase a policy of insurance in an appropriate amount to protect the Administrator, the Investigations Officer, the Election Officer and persons acting on their behalf from personal liability for any of their actions on behalf of the IBT, the Administrator, the Investigations Officer or the Election Officer. If such insurance is not available, or if the IBT so elects, the IBT

shall indemnify the Administrator, Investigations Officer, Election Officer and persons acting on their behalf from any liability (or costs incurred to defend against the imposition of liability) for conduct taken pursuant to this order. That indemnification shall not apply to conduct not taken pursuant to this order. In addition, the Administrator, the Investigations Officer, the Election Officer and any persons designated or hired by them to act on their behalf shall enjoy whatever exemptions from personal liability may exist under the law for court officers.

I. IBT LEGAL COUNSEL

14. During the term of office of the court-appointed officers, the IBT General President shall have the right to employ or retain legal counsel to provide consultation and representation to the IBT with respect to this litigation, to negotiate with the appropriate official and to challenge the decisions of the court-appointed officers, and may use union funds to pay for such legal consultation and representation. The Administrator's removal powers and authority over union expenditures shall not apply to such legal consultation and representation.

J. NON-WAIVER

15. To the extent that such evidence would be otherwise admissible under the Federal Rules of Evidence, nothing herein shall be construed as a waiver by the United States of America or the United States Department of Labor of its right to offer proof of any allegation contained in the Complaint, Proposed Amended Complaint, declarations or memoranda filed in this action, in any subsequent proceeding which may lawfully be brought.

K. APPLICATION TO COURT

16. This Court shall retain jurisdiction to supervise the activities of the Administrator and to entertain any future applications by the Administrator or the parties. This Court shall have exclusive jurisdiction to decide any and all issues relating to the Administrator's actions or authority pursuant to this order. In reviewing actions of the Administrator, the Court shall apply the same standard of review applicable to review of final federal agency action under the Administrative Procedure Act.

L. FUTURE PRACTICES

17. The parties intend the provisions set forth herein to govern future IBT practices in those areas. ⁴To the extent the IBT wishes to make any changes, constitutional or otherwise, in those provisions, the IBT shall give prior written notice to the plaintiff,

through the undersigned. If the plaintiff then objects to the proposed changes as inconsistent with the terms and objectives of this order, the change shall not occur; provided, however, that the IBT shall then have the right to seek a determination from this Court, or, after the entry of judgment dismissing this action, from this Court or any other federal court of competent jurisdiction as to whether the proposed change is consistent with the terms and objectives set forth herein.

M. SCOPE OF ORDER

18. Except as provided by the terms of this order, nothing else herein shall be construed or interpreted as affecting or modifying: (a) the IBT Constitution; (b) the Bylaws and Constitution of any IBT affiliates; (c) the conduct and operation of the affairs of the IBT or any IBT-affiliated entity or any employee benefit fund as defined in ERISA or trust fund as defined by Section 302(c) of the Labor Management Relations Act, as amended; (d) the receipt of any compensation or benefits lawfully due or vested to any officer, member or employee of the IBT or any of its affiliates and affiliated benefit fund; or (e) the term of office of any elected or appointed IBT officer or any of the officers of any IBT-affiliated entities.

N. NON-ADMISSION CLAUSE

19. Nothing herein shall be construed as an admission by any of the individual union defendants of any wrongdoing or breach of any legal or fiduciary duty or obligation in the discharge of their duties as IBT officers and members of the IBT General Executive Board.

O. FUTURE ACTIONS

20. Nothing herein shall preclude the United States of America or the United States Department of Labor from taking any appropriate action in regard to any of the union defendants in reliance on federal laws, including an action or motion to require disgorgement of pension, severance or any other retirement benefits of any individual union officer defendant on whom discipline is imposed pursuant to paragraph 12 above.

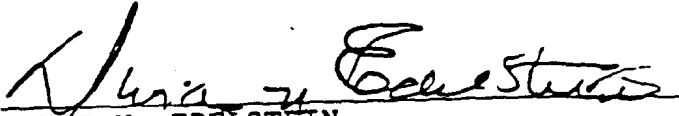
P. LIMITS OF ORDER

21. Nothing herein shall create or confer or is intended to create or confer, any enforceable right, claim or benefit on the part of any person or entity other than to the parties hereto and the court-appointed officers established herein. As to the undersigned defendants hereto, this order supercedes the^{is} order of the Court entered on June 28, 1988, as thereafter extended.

Q. EXECUTION

22. Each of the undersigned individual defendants has read this order and has had an opportunity to consult with counsel before signing the order.

March 14, 1989.


DAVID N. EDELSTEIN
United States District Judge

CONSENTED TO:

BENITO ROMANO
United States Attorney
Southern District of New York
One St. Andrew's Plaza
New York, New York 10007

Attorney for Plaintiff
United States of America

By: *Randy M. Mastro*
RANDY M. MASTRO
Assistant United States Attorney

MUDGE ROSE GUTHRIE ALEXANDER
& FERDON
180 Maiden Lane
New York, New York 10038
Attorneys for Defendants IBT
and its General Executive Board

By: *Jed S. Rakoff*
JED S. RAKOFF

JAMES T. GRADY, ESQ.
General Counsel
International Brotherhood of
Teamsters, Chauffeurs,
Warehousemen and Helpers
of America, AFL-CIO
25 Louisiana Avenue, N.W.
Washington, D.C. 20001

By: *James T. Grady*
JAMES T. GRADY, ESQUIRE

William J. McCarthy 3/13/89
Defendant WILLIAM J. MCCARTHY

Defendant WELDON MATHIS

Joseph Trerotola
Defendant JOSEPH TREROTOLA

Joseph W. Morgan
Defendant JOSEPH W. MORGAN

Edward M. Lawson
Defendant EDWARD M. LAWSON

Arnold Weinmeister
Defendant ARNOLD WEINMEISTER

Donald Peters
Defendant DONALD PETERS

Walter J. Shea
Defendant WALTER J. SHEA

Harold Friedman
Defendant HAROLD FRIEDMAN

Jack D. Cox
Defendant JACK D. COX

Defendant DON L. WEST

Michael J. Riley
Defendant MICHAEL J. RILEY

T. R. Cizza
Defendant THEODORE CIZZA

Daniel Argurotis
Defendant DANIEL ARGUROTIS



RMM:mmm
cv-715/2

U.S. Department of Justice

United States Attorney
Southern District of New York

One Saint Andrew's Place
New York, New York 10007

March 13, 1989

Jed S. Rakoff, Esq.
Mudge Rose Guthrie Alexander & Ferdon
180 Maiden Lane
New York, New York 10038


United States v. I.B.T., et al.
88 Civ. 4486 (DNE)

Dear Mr. Rakoff:

This is to confirm our mutual understanding that, when the Independent Review Board is constituted pursuant to the terms of the proposed settlement, a majority vote of the three-person Independent Review Board shall constitute a binding decision of that Board and the Attorney General and the IBT shall act promptly to select and/or replace their designees on the Board. Assuming the IBT confirms this understanding (as reflected by your signature below), the United States will accept the proposal endorsed yesterday by the IBT and the remaining individual union officer defendants.

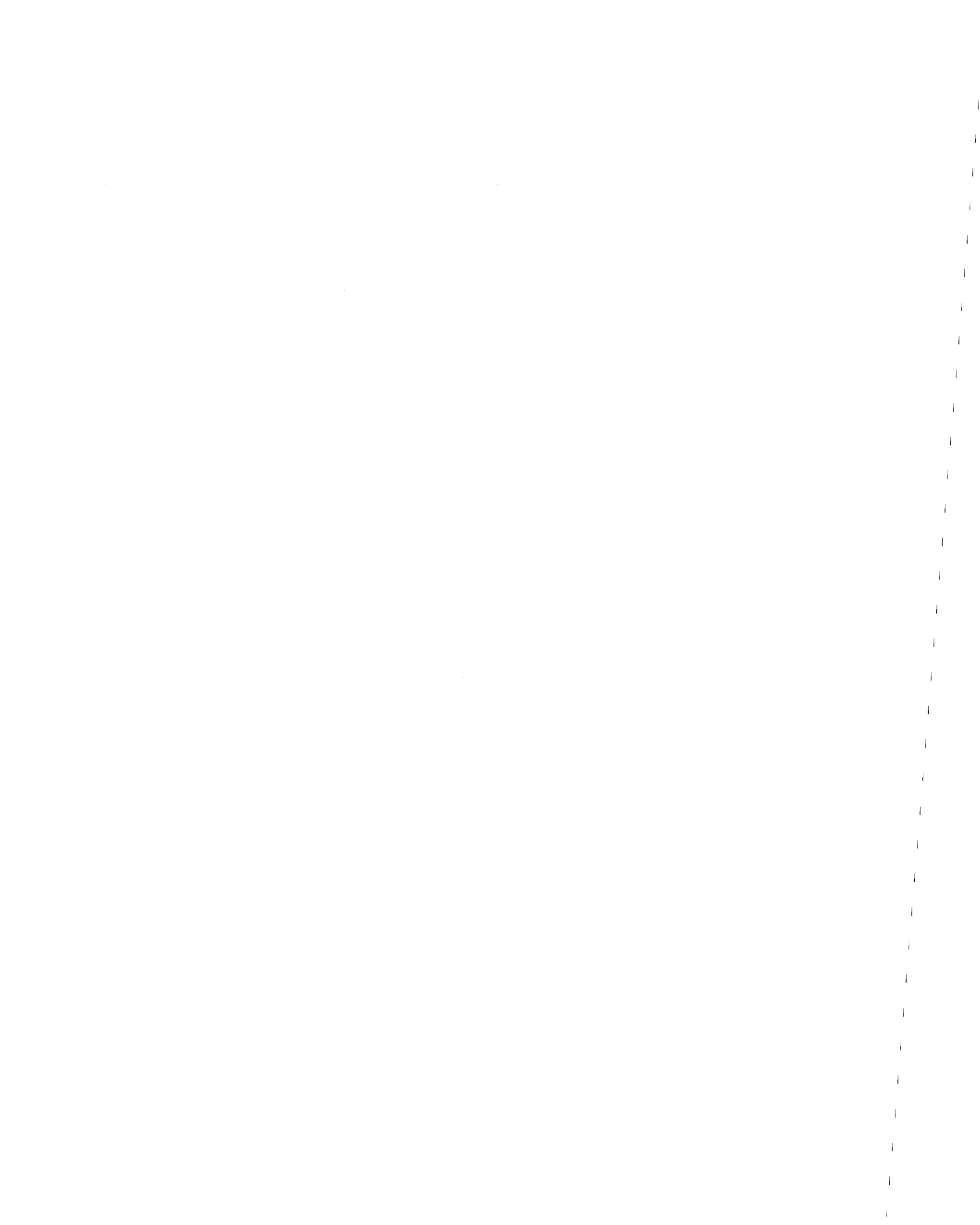
Very truly yours,

BENITO ROMANO
United States Attorney

By: 
RANDY M. MASTRO
Assistant United States Attorney
Tel. No.: (212) 791-0052

AGREED TO:


JED S. RAKOFF, ESQ.





RMM:mm
cv-883/2

U.S. Department of Justice

United States Attorney
Southern District of New York

One Saint Andrew's Plaza
New York, New York 10007

March 15, 1989

BY HAND

Jed S. Rakoff, Esq.
Mudge Rose Guthrie Alexander & Ferdon
180 Maiden Lane
New York, New York 10038

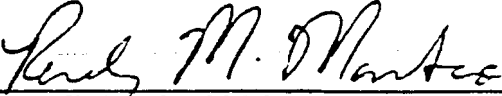
United States v. I.B.T., et al.
88 Civ. 4486 (DNE)

Dear Mr. Rakoff:

As I discussed with Mr. Grady yesterday, this is to confirm the parties' mutual understanding that: (1) nothing in the March 14 order precludes the Secretary of Labor's exercise of authority under the LMRDA or other federal laws; and (2) as to those 1991 IBT convention delegates to be elected at the time of local union elections in the fall of 1990, delegate candidates will be listed separately on the ballot from union officer candidates. Please sign below to confirm your agreement with the above.

Very truly yours,

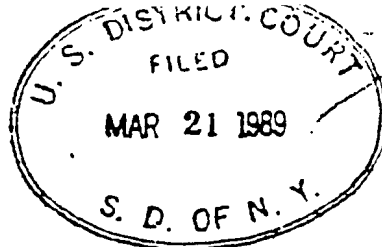
BENITO ROMANO
United States Attorney

By: 
RANDY M. MASTRO
Assistant United States Attorney
Tel. No.: (212) 791-0052

AGREED TO:


JED S. RAKOFF, ESQ.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



----- x
UNITED STATES OF AMERICA, :
 :
Plaintiff, :
 :
- V. - :
 :
INTERNATIONAL BROTHERHOOD OF :
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN :
AND HELPERS OF AMERICA, AFL-CIO, :
et al., :
 :
Defendants. :
 :
----- x

88 Civ. 4486 (DNE)

ORDER

WHEREAS, on March 10, 1989, this Court signed a Consent Judgment involving the plaintiff United States of America, and Union Defendants Weldon Mathis, Edward Lawson and Donald West; and

WHEREAS, as part of the foregoing Consent Judgment the United States withdrew the above-captioned action against these defendants with prejudice; and

WHEREAS, the remaining Union defendants consented to the entry of an Order signed by this Court on March 14, 1989; and

WHEREAS, the March 14 Order inadvertently recited on page 1 that Messrs. Mathis, Lawson and West "consented to its terms;" and

WHEREAS, the March 14 Order names Mathis, Lawson and West as objects of an injunction contained in paragraph 10; and

WHEREAS, since Mathis, Lawson and West were not defendants in this case after March 10, 1989, it is apparent that they did not consent to the March 14 Order and, therefore, the foregoing references to them were inadvertent and in error;

IT IS HEREBY ORDERED AND DECREED That:

The names of defendants Mathis, Lawson and West should be and hereby are stricken from the third whereas clause on page 1 and from the injunction in paragraph 10 so as to correctly reflect the identities of those who in fact consented to the March 14, 1989 Order.

March 21, 1989.


United States District Judge

Nbr.

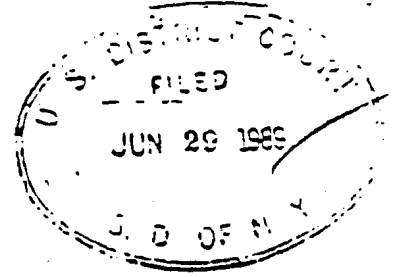
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To

Sir:

Plc will l ture l at th. U.S. Dist. Ct. S. D. N. Y. Filed

To Ederstein



UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

ORDER

- v -

88 Civ. 4486 (DNE)

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, et al.,

Defendants.

WHEREAS the Consent Order herein dated and filed March 14, 1989 (the "Consent Order") contains certain typographical errors;


-IT IS HEREBY ORDERED AND DECREED that the Consent Order shall be amended as follows:

- 1. The letter "A" at page 13, line 7 of the Consent Order shall be amended to read "C."

2. The words "the authority" at page 3, line 19 of
the Consent Order shall be deleted.

Dated: New York, New York

June 28, 1989


DAVID N. EDELSTEIN
United States District Judge

CONSENTED TO:

BENITO ROMANO
United States Attorney
Attorney for Plaintiff
United States of America

By: 
MARLA ALHADEFF
Assistant United States Attorney

MUDGE ROSE GUTERIE ALEXANDER
& FERDON
Attorneys for Defendants IBT
and its General Executive Board

By: 
JED S. RAKOFF, ESC.

Edelstein
U.S. DISTRICT COURT
FILED
JUN 28 1994
S. D. OF N. Y.

MARY JO WHITE
United States Attorney for the
Southern District of New York
By: CHRISTINE H. CHUNG (CC-7933)
Assistant United States Attorney
100 Church Street -- 19th Floor
New York, New York 10007

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA, :

Plaintiff, : 88 Civ. 4486 (DNE)

- v. - :

INTERNATIONAL BROTHERHOOD OF :
TEAMSTERS et al., :
Defendants. :

STIPULATION AND ORDER
REGARDING MARCH 21, 1994
APPLICATION OF
DEFENDANT INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

----- X
In re March 21, 1994 Application :
of the International Brotherhood of :
Teamsters :
----- X

1. The plaintiff United States of America (the "Government") and the defendant International Brotherhood of Teamsters (the "IBT") stipulate as follows:
2. This Order emanates from the voluntary settlement in the action commenced by the Government against defendants IBT and the IBT's General Executive Board (the "GEB") embodied in the voluntary consent order entered March 14, 1989 (the "Consent Decree").
3. The instant March 21, 1994 Application has been brought by the IBT pursuant to paragraphs 16 and 17 of the Consent Decree. By its Application, the IBT seeks a ruling that the revocation of the charters of the four United States Area Conferences of the IBT would not be inconsistent with the Consent Decree.

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4. In accordance with paragraph 17 of the Consent Decree, the Government has reviewed the resolution of the GE that would revoke the charters of the four United States Area Conferences of the IBT, adopted June 9, 1994. See Resolution of the General Executive Board Adopted June 9, 1994.

5. The Government takes no position on the merits of the June 9, 1994 Resolution or on the legal conclusions expressed therein. Further, the Government is not a party in IBT v. Eastern Conference of Teamsters et al., 94 Civ. 1950 (DNE).

6. Subject to the following conditions pertaining to the manner in which the IBT Constitution will be interpreted and applied, the Government does not object to the revocation of the four U.S. Area Conference charters, as effected by means of the June 9, 1994 resolution:

(a) as represented in the June 9, 1994 Resolution, for the purposes of the 1996 IBT Election, the geographical boundaries of the four United States Area Conferences, as they existed at the time of the adoption of the 1991 IBT Constitution, shall determine:

- (1) the number of regional Vice-Presidents, for the purpose of satisfying the requirements of Article IV, Section 1(c) of the IBT Constitution;
- (2) the voting district of an IBT member, for the purpose of satisfying the requirements of Article IV, Section 3(a) of

the IBT Constitution pertaining to the nomination and election of Vice-Presidents; and

(3) the number of delegate votes needed to qualify for the ballot as a candidate for Vice-President, for the purpose of satisfying the requirements of Article IV, Section 2(a) of the IBT Constitution.

(b) members of Local Union 2000 shall be deemed to be in the Central geographic region for the purposes of participating in the 1996 IBT Election.

(c) Local 901 in Puerto Rico shall be considered part of the Eastern geographic region for the purposes of its members' participation in the 1996 IBT Election.

7. In the event that the IBT acts in derogation of:

(a) any of the conditions specified in paragraph 6 herein; or

(b) the interpretations of Article IV, Sections 1(c), 2(a) or 3(a) of the IBT Constitution set forth in the June 9, 1994 Resolution;

the Government reserves all of its rights pursuant to the Consent Decree, including its right to object pursuant to paragraph 17 of the Consent Decree. In addition, the Government may seek to enforce the conditions specified in paragraph 6 herein before this Court.

8. Pursuant to paragraph 17 of the Consent Decree, and

subject to the conditions specified in paragraph 6 herein, the revocation of the four United States Area Conference charters, as effected by means of the June 9, 1994 Resolution, may occur.

Dated: New York, New York

June 16, 1994

MARY JO WHITE
United States Attorney for the
Southern District of New York
Attorney for Plaintiff

By: *Christine H. Chung*

CHRISTINE H. CHUNG (CC-7933)
Assistant United States Attorney
100 Church Street
New York, New York 10007
Tel.: (212) 385-6360

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS

By: *Judith A. Scott*

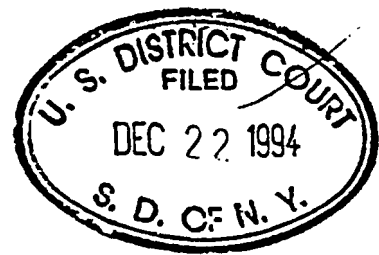
JUDITH A. SCOTT
General Counsel
25 Louisiana Avenue
Washington, D.C. 20001
Tel.: (202) 624-6945

SO ORDERED:

Thomas E. ...

6/22/94

Date: *6/25/94*



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- x
UNITED STATES OF AMERICA, :
 :
Plaintiff, :
 :
- against - :
 :
INTERNATIONAL BROTHERHOOD OF :
TEAMSTERS, et al., :
 :
Defendants. :
 :
----- x

88 Civ. 4486 (DNE)
STIPULATION & ORDER
MODIFYING
PARAGRAPH 12(D)
OF THE MARCH 19, 1989
CONSENT DECREE

WHEREAS, on March 19, 1989, this Court approved a Consent Order (the "Consent Decree") that settled the claims of plaintiff the United States of America (the "Government"), against, inter alia, defendant the International Brotherhood of Teamsters (the "IBT"); and

WHEREAS, the stated purpose of the Consent Decree is to ensure that the IBT is maintained democratically by IBT members in a manner free from undue influence, see Consent Decree ("Whereas" provisions); and

WHEREAS, to further this aim, the Consent Decree requires direct rank-and-file secret ballot election of International Union officers; and

WHEREAS, Paragraph 12(D) of the Consent Decree provides for the IBT General President, Secretary-Treasurer and Vice Presidents to be elected by direct rank-and-file voting in the International Union Officer election, but for Trustees to be elected at the International Convention by delegates to the convention; and

WHEREAS, the delegates to the 1991 International

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Convention adopted an amendment to the IBT Constitution that would have required Trustees to be elected by direct rank-and-file voting, see IBT Constitution, Art. IV, § 3(a), but for the Government's objection to that amendment; and

WHEREAS, the Government's objection was based upon its determination that because Trustees are not General Executive Board members and do not perform executive functions, it was neither necessary nor desirable to have Trustees elected in the same fashion as the other International Union officers; and

WHEREAS, based upon experience gained in the 1991 IBT Election and its determination that it is feasible for the Election Officer to supervise a direct rank-and-file election for Trustees as well as the other International Union officers, the Government has withdrawn its objection to the constitutional language proposing to include Trustees in the International Union Officer election; and

WHEREAS, the Government and the IBT agree that providing for Trustees to be elected by direct rank-and-file voting as part of the International Union Officer election best serves the purposes of the Consent Decree.

NOW THEREFORE IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, that:

1. Paragraph 12(D) (iv) of the Consent Decree is hereby modified in the following manner:

At such an International convention, after the nomination of International Union Vice Presidents and ~~election of~~ Trustees, all delegates shall then vote for nominees for the offices of IBT General President and

Secretary-Treasurer;

2. Paragraph 12(D)(v) of the Consent Decree is hereby modified in the following manner:

To qualify for the ballot for the direct rank-and-file voting for IBT General President, Secretary-Treasurer, ~~and~~ Vice President, and Trustee, candidates must receive at least five (5) percent of the delegate votes at the International convention, for the at large position, or by conference for regional positions, as the case may be;

3. Paragraph 12(D)(vii) of the Consent Decree is hereby modified in the following manner:

No less than four (4) months and no more than six (6) months after the International convention at which candidates were nominated, the IBT General President, General Secretary-Treasurer ~~and~~ Vice Presidents and Trustees shall be elected by direct rank-and-file voting by secret ballot in unionwide, one-member, one-vote elections for each at large position, and conference wide, one-member, one-vote elections for each regional position;

4. No provision of this Stipulation and Order abrogates the obligations of the Government and IBT as set forth in the Stipulation and Order Regarding March 21, 1994 Application of Defendant IBT, dated June 28, 1994.

Dated: New York, New York
December 14, 1994

MARY JO WHITE
United States Attorney for the
Southern District of New York
Attorney for Plaintiff
United States of America

By: Christine H. Chung
CHRISTINE H. CHUNG (CC-7933)
Assistant United States Attorney
100 Church Street, 19th Floor
New York, New York 10007
Tel.: (212) 385-6360

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS

By: Judith A. Scott
JUDITH A. SCOTT
General Counsel
25 Louisiana Avenue, N.W.
Washington, D.C. 20001
Tel.: (202) 624-6940

SO ORDERED:

David J. Earle
UNITED STATES DISTRICT JUDGE

New York, New York
Date: Dec 21, 1994

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CHUNG

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

74181

-----X
UNITED STATES OF AMERICA, :
 :
 Plaintiff, :
 :
 - against - :
 :
 INTERNATIONAL BROTHERHOOD OF :
 TEAMSTERS, CHAUFFEURS, :
 WAREHOUSEMEN AND HELPERS OF :
 AMERICA, AFL-CIO, et al., :
 :
 Defendants. :
-----X

OPINION & ORDER

88 Civ. 4486 (DNE)

-----X
IN RE: APPLICATION TO AMEND THE
CONSENT DECREE TO PROVIDE FOR
MAIL-BALLOT VOTING IN IBT
ELECTIONS
-----X

FILED OPINION
U.S. DISTRICT COURT
1995 JAN 11 P 4:01

EDELSTEIN, District Judge:

This opinion emanates from the voluntary settlement of an action commenced by plaintiff, United States of America, against defendants, the International Brotherhood of Teamsters ("the IBT") and the IBT's General Executive Board. This settlement was embodied in the voluntary consent order entered March 14, 1989 ("the Consent Decree").

Among other things, the Consent Decree provides that IBT elections shall be conducted by direct rank-and-file voting by secret ballot. Under paragraph 12(D)(viii) of the Consent Decree, "[a]ll direct rank-and-file voting by secret ballot . . . shall be by in-person ballot box voting at local unions or absentee ballot procedures where necessary."

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Pursuant to paragraph 16 of the Consent Decree, the Government has applied to this Court for a modification of paragraph 12(D)(viii). Under the Government's proposed modification, all direct rank-and-file voting at future IBT elections would be conducted "by mail ballot in accordance with Department of Labor Regulations,¹ except that the Election Officer may determine, in compelling circumstances, that delegate elections in the local unions need not be conducted by mail ballot." (Government's Proposed Order at 3.)²

The Government argues that experience gained during the 1991 IBT elections favors modifying the Consent Decree to the extent proposed by the Government. Although the Consent Decree mandates in-person voting for all IBT elections, this Court approved election rules for the 1991 IBT delegate election that provided for mail-ballot voting. See July 10, 1990 Opinion & Order, 742 F. Supp. 94 (S.D.N.Y. 1990), aff'd as modified, 931 F.2d 177 (2d Cir. 1991); Michael H. Holland, Rules for the IBT International Union Delegate and Officer Election 86-89 (August 1, 1990). In

¹ These regulations are codified at 29 C.F.R. § 452.96 et seq.

² The complete text of the Government's proposed modification reads:

All direct rank-and-file voting by secret ballot described above shall be by mail ballot in accordance with Department of Labor Regulations, except that the Election Officer may determine, in compelling circumstances, that delegate elections in the local unions need not be conducted by mail ballot.

(Government's Proposed Order at 3.)

this election, "mail balloting occurred in 264 of the 307 contested Local Union delegate and alternate delegate elections." The Cookbook: How the Election Officer Supervised the 1991 Teamster Election 4-2 to 4-3. In local union delegate elections where mail balloting was used, 33% of all eligible voters voted; in contrast, where in-person voting was used, 19% of eligible voters voted. See id. at 4-3.

Because of the success of mail-ballot voting in the 1991 delegate election, the Election Officer drafted a plan that called for mail-ballot voting in the 1991 International Union Officer election, which the Independent Administrator submitted as an application to this Court. By Order dated September 11, 1991, this Court approved this application, finding that the plan was "fully conducive to achievement of the Consent Decree's goal of fair, open, and honest IBT officer elections in which the members of the IBT may participate freely and without interference." See September 11, 1991 Order, No. 88 Civ. 4486 (S.D.N.Y. 1991). The results of this election also indicate that mail-ballot voting increased voter turnout. In local unions that had used in-person voting for the delegate election, but mail balloting for the International Union Officer election, voter participation increased from 19% to 29.8%. See Declaration of Amy Gladstein dated December 8, 1994, ¶ 4.

The Government also asserts that, apart from producing greater voter participation, in IBT elections, mail-ballot voting is superior to in-person voting for other reasons. Here, mail-

ballot voting is less expensive because it requires less administrative oversight. (Government's Memorandum at 5 (citing The Cookbook: How the Election Officer Supervised the 1991 Teamster Election 2-58 to 2-59).) Mail-ballot voting also reduces the opportunities for voter intimidation and harassment. (Government's Memorandum at 5 (citing Declaration of Amy Gladstein dated December 8, 1994, ¶¶ 2, 5).)

The IBT has largely supported the Government's application. In its motion papers, the IBT states that it "agrees with the Government's Application with respect to the 1996 election." (IBT's Memorandum at 1.) Like the Government, the IBT asserts that the results of the 1991 elections demonstrate the value of mail-ballot voting.

The Government, however, contends that the Consent Decree should be modified so that mail-ballot voting will be the standard method of conducting all future IBT elections. In contradistinction, the IBT contends that the Consent Decree should only be modified to provide for mail-ballot voting in the 1996 IBT election. Under the IBT's proposed modification, the Consent Decree would continue to provide for in-person voting for all IBT elections after 1996.³

³ The text of the IBT's proposed modification reads:

The rank-and-file voting by secret ballot in the 1996 Election shall be by mail ballot in accordance with Department of Labor Regulations, except that the Election Officer may determine, in compelling circumstances, that delegate elections in the Local Unions need not be conducted by mail ballot.

In Juan F. v. Weicker, 37 F.3d 874 (2d Cir. 1994), the Second Circuit reviewed the standard for modification of a consent decree. The Weicker court stated that "a party may obtain modification of a consent decree by establishing that there has been a significant change in circumstances, factual or legal, and that the proposed modification is suitably tailored to deal with the changed circumstances." Id. at 878 (citing Rufo v. Inmates of Suffolk County Jail, 112 S. Ct. 748, 760 (1992)).

Although district courts have substantial discretion to modify consent decrees, "[m]odification is a remedy not to be lightly awarded." Id. The Weicker court cautioned that modifications of consent decrees may "'discourage compromise for fear of adverse judicial modification.'" Id. (quoting Walker v. HUD, 912 F.2d 819, 826 (5th Cir. 1990)).

In the instant case, this Court finds that there has been a significant change in circumstances that warrants a modification of the Consent Decree. Since the Consent Decree was entered into in 1989, the circumstances have changed significantly because it now appears that mail-ballot voting--rather than in-person voting--best promotes the Consent Decree's goal of fair, democratic IBT elections. In 1989, when the parties entered into the Consent Decree, it was believed that in-person voting would best promote democratic IBT elections. Yet, as both the IBT and the Government now agree, the 1991 elections demonstrate that mail-ballot voting promotes increased voter participation, while

(IBT's Proposed Order at 3.)

reducing the opportunity for voter intimidation and harassment.

For several reasons, this Court finds that the Government's proposed modification to the Consent Decree is "suitably tailored to deal with the changed circumstances." Weicker, 37 F.3d at 878. The Government's proposed method of conducting elections has proven effective in the 1991 IBT elections. As discussed previously, the 1991 elections demonstrated that IBT members are more likely to participate in a mail-ballot election. The 1991 elections also demonstrated that in-person voting simply does not work as well as mail-ballot voting. Elections that used in-person voting produced substantially lower voter turn out, and the Election Officer found that they increased the risk that voters would be harassed or intimidated. In addition, in light of the fact that this Court has previously addressed this voting-method issue twice regarding the 1991 elections and now must address this issue again, the Government's proposed modification promotes judicial economy. In 1991, this Court approved election rules that permitted delegates to be elected by mail-ballot voting. July 10, 1990 Opinion & Order, 742 F. Supp. 94 (S.D.N.Y. 1990), aff'd as modified, 931 F.2d 177 (2d Cir. 1991); Michael H. Holland, Rules for the IBT International Union Delegate and Officer Election 86-89 (August 1, 1990). Later in 1991, this Court approved the Election Officer's plan to permit mail-ballot voting in the 1991 International Union Officer election. See September 11, 1991 Order. Currently, both parties agree that mail-ballot voting should be used in the 1996 election. Thus,

the Consent Decree's in-person voting requirement has created a recurring need to seek this Court's intervention in order to implement mail-ballot voting, and the Government's proposed modification is suitably tailored to remedy this problem.

In contrast, the IBT's proposed modification to the Consent Decree is not "suitably tailored to deal with the changed circumstances" in this case. Weicker, 37 F.3d at 878. Under the IBT's proposal, the Consent Decree would be modified so that mail-ballot voting would only be employed in the 1996 election. The IBT proposes retaining in-person voting in future IBT elections, despite the fact that both parties agree that in-person voting is inferior to mail-ballot voting. The IBT's proposal is not suitable because it mandates an inferior method of electing IBT delegates and officers in future IBT elections, absent another application to this Court. As such, the IBT's proposal raises the probability that this Court will be required needlessly to rehash the voting-method issue in the context of the IBT's next election.

In sum, the Government's proposed modification of the Consent Decree is suitably tailored to the changed circumstances in the instant case. Further, the Government's proposed modification reduces the chances that, in the future, this Court will be needlessly called upon again to review the voting method used in IBT elections. Thus, this modification recognizes the importance of limiting modifications of consent decrees in general and limiting modifications of this Consent Decree in

particular.

It should be emphasized that modification of consent decrees discourages future litigants from settling disputes because of the fear that the obligations created by a settlement may change over time. The parties should not view this Court's decision to modify the Consent Decree as a departure from the rigorous standards that govern modifications of consent decrees.

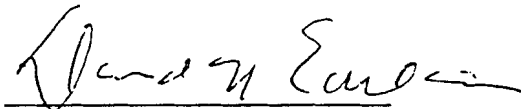
CONCLUSION

IT IS HEREBY ORDERED that paragraph 12(D)(viii) of the Consent Decree is modified to read:

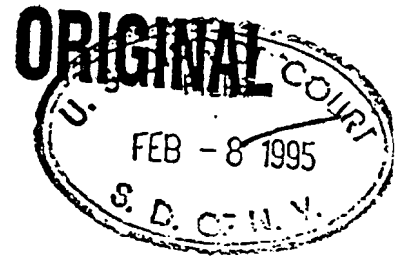
All direct rank-and-file voting by secret ballot described above shall be by mail ballot in accordance with Department of Labor Regulations, except that the Election Officer may determine, in compelling circumstances, that delegate elections in the local unions need not be conducted by mail ballot.

SO ORDERED.

DATED: New York, New York
January 11, 1995


U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,	:	88 Civ. 4486 (DNE)
Plaintiff,	:	STIPULATION & ORDER
- against -	:	IMPLEMENTING
INTERNATIONAL BROTHERHOOD OF	:	PARAGRAPH 12(D) (ix)
TEAMSTERS, et al.,	:	OF THE MARCH 19, 1989
Defendants.	:	<u>CONSENT DECREE</u>

WHEREAS, on March 19, 1989, this Court approved a Consent Order (the "Consent Decree") that settled the claims of plaintiff the United States of America (the "Government"), against, inter alia, defendant the International Brotherhood of Teamsters (the "IBT"); and

WHEREAS, Paragraph 12 of the Consent Decree provided for the Court to appoint an Election Officer to supervise the IBT Election to be conducted in 1991 (the "1991 Election Officer"); and

WHEREAS, on January 22, 1992, the 1991 Election Officer, Michael H. Holland, certified the results of the 1991 IBT Election; and

WHEREAS, Paragraph 12(D)(ix) of the Consent Decree provided additionally that "the union defendants consent to the Election Officer, at Government expense, to supervise the 1996 IBT Elections" (the "1996 Election Officer"); and

WHEREAS, on June 23, 1993, this Court appointed Amy Gladstein to be the 1996 Election Officer;

WHEREAS, the Government and the IBT have agreed upon

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means of implementing Paragraph 12(D) (ix) of the Consent Decree insofar as it pertains to supervision of the 1996 IBT Election; and

WHEREAS, the Government and the IBT agree that implementation of Paragraph 12(D) (ix) of the Consent Decree, on the terms set forth herein, will fulfill the letter, spirit and intent of the Consent Decree; and

WHEREAS, it is the intention of the Government and the IBT that the Election Officer function in 1996 as similarly as possible to the 1991 Election Officer; and

WHEREAS, the Government and the IBT believe it necessary to agree upon the means of implementing Paragraph 12(D) (ix) of the Consent Decree prior to the 1996 IBT Election, to provide certainty to the parties to the Consent Decree, the IBT membership, and the 1996 Election Officer.

NOW THEREFORE IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, that:

1. All rights and duties conferred upon the 1991 Election Officer by paragraph 12 of the Consent Decree are hereby conferred upon the 1996 Election Officer, including but not limited to:

- a) the rights provided in sections (i) (a), (i) (b), (i) (c) and (i) (d) of Paragraph 12(C) pertaining to Access to Information;
- b) the entitlement to suitable office space provided by the IBT at IBT headquarters in

Washington, D.C., as set forth in section (iii) of Paragraph 12(C), or at a different location if approved by the 1996 Election Officer;

c) the right to distribute materials about the election in advance of the election, as set forth in Paragraph 12(D) (ix); and

d) the authority provided in Paragraph 12(G) of the Consent Decree pertaining to the Election Officer's employment of personnel and appointment of designees.

2. The duty that Paragraph 12(D) (ix) of the Consent Decree imposed upon the Independent Administrator, to "hear disputes about the conduct and/or results of elections," is hereby conferred upon an Election Appeals Master to be appointed by the Court. The Election Appeals Master shall possess all rights and powers Paragraph 12 of the Consent Decree conferred upon the Independent Administrator in connection with the Independent Administrator's election supervision functions. Those powers include those specified in paragraph 1 of this Stipulation & Order. The standard of review that the Election Appeals Master shall apply to decisions of the Election Officer shall be same standard of review applied by the Independent Administrator in the 1991 election. In reviewing decisions of the Election Appeals Master, this Court shall apply the standard of review set forth in Paragraph 16 of the Consent Decree.

3. The following rights and duties, which the Consent

Decree conferred upon the Independent Administrator in connection with the 1991 IBT Election, are hereby conferred upon the 1996 Election Officer and Election Appeals Master:

a) the authority specified in Paragraph 12(E) of the Consent Decree to distribute materials to the IBT membership regarding the activities of the Election Officer and Election Appeals Master, including reports in each issue of the union magazine distributed to all IBT members, with reasonable costs of such distribution to be borne by the IBT; and

b) the obligation imposed by Paragraph 12(F) of the Consent Decree to file reports with the Court;

c) the authority granted by Paragraph 12(I) of the Consent Decree to make applications to the Court, after giving notice to specified parties.

4. Paragraphs 13 and 16 of the Consent Decree shall apply to the 1996 Election Officer and Election Appeals Master.

5. Paragraph 12(H) of the Consent Decree shall not apply to the fees and expenses of the 1996 Election Officer or the Election Appeals Master.

6. The authority of the 1996 Election Officer and the Election Appeals Master shall terminate after the certification of the 1996 election results by the 1996 Election Officer for all IBT International Officers as provided in the Consent Decree, except

that the Election Officer and the Election Appeals Master shall each retain his or her respective authority, granted under paragraph 12(D) of the Consent Decree and under this Stipulation and Order, to resolve all disputes concerning the conduct and/or results of the elections conducted in 1996. "Certification of the 1996 election results" shall be construed to mean either the date upon which the 1996 Election Officer certifies the 1996 IBT Election results for all IBT International Officers or one month after the final balloting, whichever is shorter.

Dated: New York, New York

January 26 1995

MARY JO WHITE
United States Attorney for the
Southern District of New York
Attorney for Plaintiff
United States of America

By:

Christine H. Chung
CHRISTINE H. CHUNG (CC-7933)
Assistant United States Attorney
100 Church Street, 19th Floor
New York, New York 10007
Tel.: (212) 385-6360

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS

By:

Judith A. Scott
JUDITH A. SCOTT
General Counsel
25 Louisiana Avenue, N.W.
Washington, D.C. 20001
Tel.: (202) 624-6940

SO ORDERED:

Harold Edelstein
UNITED STATES DISTRICT JUDGE

Date: FEBRUARY 7, 1995

DOC # 3951

ORIGINAL
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U.S. DISTRICT COURT
S. D. OF N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA, : 88 Civ. 4486 (LAP)

Plaintiff, :

- against - : STIPULATION & ORDER

INTERNATIONAL BROTHERHOOD OF : MODIFYING PARAGRAPH 12(D)

TEAMSTERS, et al., : OF THE MARCH 14, 1989

Defendants. : CONSENT DECREE

----- X

WHEREAS, on March 14, 1989, the United States District Court for the Southern District of New York (the "Court") approved a Consent Decree (the "Consent Decree") that resolved the claims of plaintiff United States of America (the "Government") against, among others, the defendant International Brotherhood of Teamsters (the "IBT"); and

WHEREAS, Paragraph 12(D) of the Consent Decree provides that delegates to the International Convention "shall nominate candidates for eleven (11) Regional Vice Presidents, as follows: Three (3) from the Eastern Conference, three (3) from the Central Conferences, two (2) from the southern Conference, two (2) from the Western Conference, and one (1) from the Canadian Conference" and shall further nominate candidates for "five (5) Vice Presidents to be elected at large;" and

WHEREAS, with notice to and without objection from the Government, the delegates to the 2006 International Convention adopted an amendment to Article IV, Section 1 of the IBT

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Constitution that employs a census-based system for establishing the number of Regional Vice Presidents and increases the number of Vice Presidents at large from five to seven;

WHEREAS, the Government and the IBT agree that the amendment to Article IV, Section 1 is not inconsistent with the objectives of the Consent Decree;

NOW THEREFORE IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, that:

1. Paragraph 12(D)(iii) of the Consent Decree is hereby modified in the following manner:

Delegates shall nominate candidates for ~~eleven (11) Regional Vice Presidents, as follows: Three (3) from the Eastern Conference, three (3) from the Central Conference, two (2) from the Southern Conference, two (2) from the Western Conference, and one (1) from the Canadian Conference~~ for Regional Vice Presidents from the Eastern Region, Central Region, Southern Region, Western Region, and Teamsters Canada. The number of Regional Vice Presidents shall be determined on the basis that each Region shall be entitled to at least two (2) regional Vice Presidents and one (1) additional regional Vice President for each 100,000 members, or major fraction thereof (defined as one more than fifty percent), in excess of 200,000 members. In addition, there shall be nominated candidates for ~~five (5)~~ seven (7) Vice Presidents to be elected at large. All duly nominated Vice Presidents shall stand for election conducted at local unions on the same ballot and time as the election of General President and General Secretary-Treasurer, as provided herein;

Dated: New York, New York
July 28, 2006

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York

By: Danna Drori
DANNA DRORI (DD-7690)
ANDREW W. SCHILLING (AS-7872)
BETH E. GOLDMAN (BG-6247)
Assistant United States Attorneys
86 Chambers Street, 3rd Floor
New York, New York 10007
Telephone: (212) 637-2689
Facsimile: (212) 637-2686

Dated: Washington, D.C.
July 21, 2006

International Brotherhood
of Teamsters

By: Bradley T. Raymond
BRADLEY T. RAYMOND (BR-___)
General Counsel
International Brotherhood
of Teamsters
25 Louisiana Avenue, N.W.
Washington, D.C. 20001
Telephone: (202) 624-6847
Facsimile: (202) 624-6884

SO ORDERED:

Loretta A. Preska
LORETTA A. PRESKA
UNITED STATES DISTRICT JUDGE

July 31, 2006

EXHIBIT B

Persons Permanently Barred from the IBT by Action Initiated by IRB

Aaron, Scott	Abbate, Joseph	Adamo, Frank
Adelstein, Bernard	Agathos, John	Agliata, Peter
Akalski, John	Alfieri, Victor	Aligo, Joseph
Alimena, Ralph J.	Allocca, Francis	Anthony, Gary
Antoun, Anthony	Baccaro, Frank	Bane, Michael
Barbato, Salvatore	Barbato, Salvatore	Baron, Perry
Baron, Thomas	Baroncelli, David	Barretta, Jack
Barretti, Jr., Philip	Barretti, Philip	Bavaro, Pasquale
Bellamare, Andrew	Bellochio, Scott	Bennett, Eugene
Bernhard, Nicolas	Bernstein, Joseph	Bilotti, John
Bizenza, Richard	Boano, Michael L.	Boggia, Glenn
Bourgal, Micahel	Brovarski, Theodore J.	Brovarski, Theodore M.
Brown, Timothy	Buckley, James	Burhoe, Joseph
Bush, Earl D.	Calagna, Anthony	Calagna, Sr., Anthony
Calcagno, Robert	Caldwell, Walter	Camadeco, Benjamin
Cammaranno, Jr., Joseph	Cammaranno, Sr. Joseph	Canino, Sam
Cantu, Arthur	Capone, Albert	Capone, Stephen
Caracciolo, Dominick	Carbone, Michael	Carbone, Ronald
Carey, Ron	Carucci, Michael	Cashman, George
Cassero, Charles	Castelle, John	Cataldo, Salvatore
Centaro, Charles	Cerbone, Thomas	Cherilla, William
Chester, Todd	Chester, Todd	Chiavola, George
Ciesla, Richard	Cimino, Joseph	Ciner, Eugene
Clancy, John	Coli, James L.	Compono, John
Congemi, John	Connelly, Leo	Cordato, Vincent
Corrallo, Gerald	Cozza, Theodore	Cozzo, James Vincent
Crapanzano, L. Robert	Crapanzano, Pasquale	Crapanzano, Patrick
Crawley, Chuck	Cumella, Jasper	Cuozzo, Anthony
Cutolo, William	Czernel, Chester	D' Aiuto, John
D' Ambrosio, Rocco	D' Amico, Ralph	D' Andraia, Ralph
D' Angelo, Robert	Deamicis, James	DeAngelis, Louis
Dellorusso, Patrick	Delsardo, Ralph	DeMatteo, Joseph
DeStefano Albert	DiFronzo, Peter M.	DiGangi, Michael
DiGirlando, Nick A.	DiLeonardo, Michael	DiNardi, Anthony
DiNardi, John	Disario, Vincent	DiTomasso, Marie
Doe, Michael	Donahue, Dennis	Doris, Maria
Dougherty, Edward	Doyle, Scott	Dyson, Ronald
Esposito, Louis	Faicco, Alfred	Fandacone, Anthony
Fappiano, Frank	Fasulo, Philip	Fattizzi, Dina

Fattizzi, Vincent	Fattizzi, Vincent	Fazio, John
Federico, Vincent	Feeney, Frank	Feeney, Robert J.
Feinstein, Barry	Feola, Vincent	Ferchak, William
Ferrara, John	Ferreri, Ralph	Festa, Modestina "Augie"
Fields, Lon	Fiumfreddo, Frank	Forino, Ronald H.
Friedman, Harold	Froncillo, Dominick	Furstman, Theodore N.
Fusco, Carmine	Fusco, Dominick	Galante, James
Gallina, Andrew	Garafola, Edward	Garbarino, Anthony
Garono, Lawrence	Geller, Mitchell	Generoso, Jr., Michael
Generoso, Vincent	Genoese, William	Georgopolous, John
Giannattasio, Maria	Gibney, George	Giovanniello, Nicholas
Girlando, Joseph	Glimco, Joseph	Gonzalez, Edwin
Grancio, Nicholas	Guarniero, Pasquale	Gugliaro, Vincent
Guglielmo, John F.	Guidice, Dominick	Hamilton, William
Hanoian, Paul	Heilbrun, Richard	Heim, Donald
Herron, Murlene	Hickey, Dennis C.	Hickey, Dennis E.
Hittner, Elyse	Hittner, Jeffrey	Hittner, Mark
Hittner, Seymour	Hoff, Walter	Hogan, Joseph
Hogan, William T.	Hohmann, John	Houmis, Mark
Ianniello, Michael	Igneri, Anthony	Immerglick, Roger
Incandella, Frank	Ingrassia, Joseph	Innaurato, Peter
Isner, Raymond	Jackson, James	Jones, Mark
Kapp, Bruce	Kikes, John	Kolakowski, Zbigniew
Kosey, Joseph	Lanser, Chris	Lanza, Charles
Lanza, Louis	Lark, Jr., Clarence	Lauro, Costabile
Leidl, Randolph	Levy, Richard	Ligurotis, Daniel C.
Llopiz, Mia	LoDolce, Joseph	Loguidice, Michael
Lombardo, Louis	Lombardozi, Camillo	Lombardozi, Daniel
Lombardozi, George	Long, John F.	Lunati, Frank
Lunati, Louis	Maddaloni, Michael	Madonna, Aniello
Maguire, Lawrence	Mahoney, John S.	Maldonado, Fausto
Malena, Michael	Mall, Richard	Manero, Anthony
Manfredi, Antonio	Manfredi, Corrado	Manfredi, Nick
Mangine, David	Manzo, Frank	Marchini, Michael
Marsigliano, Frank	Martinelli, Henry	Martinelli, John
Martinelli, Robert	Martinelli, Vincent	Martinez, Edward
Mastando, John	Mastando, John	Mauro, Charles
McKay, Robert	McKim, Nellie	McNamara, Dennis
McNeil, James	Meekin, John	Menechino, Peter
Meyer, Charles	Mezzina, Onofrio	Milano, Dominick
Miller, Albert	Milo, Nicholas	Minichino, Marco

Mirabello, Michael	Misuraca, Angelo	Moar, James
Mongelli, Paul	Morabito, Alice	Moran, John
Morris, David	Morris, Michael J.	Morrison, Jerry
Mosley, Cassandra	Mule, Joseph C.	Murray, Joseph
Musso, Girolemo "Sonny"	Napolitano, Morris Sr.	Nardi, Nicholas
Nave, Jerry	O'Brien, Charles	O'Donnell, Anthony
O'Grady, James	Ortense, Valentine	Paccione, Adrianne
Paccione, Angelo	Padellaro, Joseph	Paolino, Angela
Paolino, Angelo	Paolino, Thomas	Parise, Nicholas, Jr.
Parise, Nicholas, Sr.	Parker, Larry	Parrino, Anthony
Passo, Dane	Pecora, Joseph	Perry, John
Piccolo, Anthony	Picone, John	Picone, Samuel
Pierce, Bernice	Pirro, Joseph	Piscopo, Bernard
Plinio, Thomas	Plotnick, Larry	Polidori, Raymond
Ponce, Armando	Porta, Michael	Porter, Raymond
Prelli, Michael	Proctor, Gary	Proybehan, John
Purpura, Carl	Rabbit, Michael	Radek, Richard
Radice, Frank	Rascyk, Greg	Razza, Anthony
Rea, Armando	Reynolds, Andrew	Rheinhardt, Robert
Richardson, Gary	Riley, Robert	Rizzo, Anthony
Rizzo, Patricia	Roach, Christopher	Roberto, Joseph
Robilotto, Nicholas	Robles, Donny	Rodzwicz, Edward
Rosano, Thomas	Ross, Charles	Ross, Josef
Rumore, Anthony	Rumore, Louis	Russo, Michael
Ryan, Thomas	Ryan, Timothy	Sacca, Dominic
Sainato, Anthony	Salcedo, Sergio	Salerno, Cirino (Charles)
Salerno, Frank	Saltalamachea, Henry	Sansone, Robert
Santora, Gene	Sass, Gary	Sasso Robert
Scaffidi, Anthony	Scalza, Perry	Scalza, Richard
Scalza, Robert	Schweitzer, Henry	Sciarra, Michael
Scognamiglio, James	Scully, Christopher	Selvaggi, Warren
Senese, Dominic	Senese, Lucien	Senter, Anthony M.
Sirabella, Anthony	Sirico, Robert	Skeries, Robert
Slawson, Bradley A.	Slawson, Bradley D.	Slemko, Daniel
Sombrotto, Vincent	Sottile, Pasquale	Spada, John
Spalding, Stacey	Spencer, Robert	Sperando, John
Spikes, Jr., Willie	Spranzo, Carlo	Stauffer, Joseph
Stein, Larry	Stella, Ronald	Talerico, Joseph
Tamily, Henry	Taylor, John	Tennenbaum, Bernard
Teolis, Glenn	Tomanelli, Michael	Torre, Joseph
Tortorici, Philip	Trerotola, Joseph	Triano, Robert

Tripodi, Stephen	Trivigno, John	Turzio, Anthony
Urso-Pernice, Michael	Valerio, David	Valerio, Gildo
Valle, Sonio	Vanderbergen, Dennis	Ventimiglia, Pasquale
Vera, Arcadio	Vigliotti, Joseph	Vigliotti, Vincent
Vitarelli, Frank Sr.	Vitarelli, Joseph	Vulpis, Daniel Jr.
Vulpis, Daniel, Sr.	Vulpis, Dominic	Vulpis, Dominick
Wallach, David	Weinberg, Brian	Weinberg, Sheldon
Werthmann, Thomas	Whitney, Sam	Wilkins, Jeffrey
Wilson, Robert	Winstead, Brady	Wojciechowski, Joseph
Wolf, Rita	Yanucci, Joseph	Yera, Maria
Zancocchio, John	Zappi, Anthony	Zenga, Daniel

Persons Permanently Barred by Action of the IBT Independently of the IRB

Cashman, George

EXHIBIT C

ELECTRONIC COMMUNICATION ENHANCEMENTS

A. Identify member email addresses through the respective websites of the IBT and Independent Election Supervisor:

- Currently, www.teamster.org contains a prominent banner prompting visitors to sign up for emails. This has yielded a list of approximately 150,000 email addresses, to which all campaigns have access through a third-party vendor as prescribed by the 2011 Election Rules. See Election Rules 2010-2011 Art.VII, Sec. 7(a)(4). The IBT shall amend the website to add a check box for IBT members to self-identify, which information would be added to the database of email addresses.
- The website of the Independent Election Supervisor shall also be amended to allow IBT members to sign up to receive election-related information via email. Email addresses collected pursuant to this method shall be accessible solely to the Independent Election Supervisor and his staff for this purpose.

B. Collect email addresses at key touch points to enhance the database:

- Revise future membership application forms to seek email address.
- Solicit email addresses through notices in IBT's Teamsters magazine, Facebook page, and Twitter feed directing members to the email sign-up page at www.teamster.org.

C. Enhance awareness of campaign materials through IBT new media properties, consistent with the Election Rules:

- Feature links to candidates' campaign websites, Facebook pages, Twitter feeds, and other new media destinations through an IBT election page on www.teamster.org, as well as through the website of the Independent Election Supervisor.
- Post on the IBT's Facebook page, on an interval basis as determined by the Independent Election Supervisor, a link to the IBT election page on www.teamster.org for members to access candidates' websites, Facebook pages, Twitter feeds, and other new media destinations.
- Tweet on the IBT's Twitter feed, on an interval basis as determined by the Election Supervisor, a link to the IBT election page on www.teamster.org for members to access candidates' websites, Facebook pages, Twitter feeds, and other new media destinations.

RULES GOVERNING THE AUTHORITIES

OF

**INDEPENDENT DISCIPLINARY OFFICERS AND THE
CONDUCT OF HEARINGS**

**RULES GOVERNING THE AUTHORITIES OF INDEPENDENT DISCIPLINARY OFFICERS AND THE
CONDUCT OF HEARINGS**

A. INTRODUCTION

These Rules Governing the Authorities of Independent Disciplinary Officers and the Conduct of Hearings (hereinafter "Disciplinary Rules") outline the authorities of the Independent Disciplinary Officers and the procedure in conducting hearings by the Independent Review Officer on disciplinary matters concerning IBT members facing disciplinary charges and IBT entities subject to trusteeship. The authority for implementing the Disciplinary Rules is provided by the Final Agreement and Order in 88 Civ. 4486 ("Final Agreement and Order"). In addition, these Disciplinary Rules may be modified or construed by the Independent Review Officer to ensure a just result in every matter.

B. AUTHORITIES OF THE INDEPENDENT DISCIPLINARY OFFICERS

1. The Independent Investigations Officer is authorized to investigate any allegations of corruption in the IBT, including, but not limited to: bribery; extortion; embezzlement; use of threats of force or violence against members to interfere with or extort their rights under the IBT Constitution or their union democracy rights under applicable law, including their rights to assemble, express their views, vote, seek election to office, support the candidates of their choice, and participate in the affairs of the IBT;

acceptance of money or other things of value from any employer or agent of an employer, in violation of applicable law; any act of racketeering activity, as defined in applicable law; aiding and abetting any act of racketeering, including the extortion of IBT members' union democracy rights as defined by applicable law; any allegations of domination, control, or influence over any IBT affiliate, officer, member, employee, or representative by any organized crime family or any other criminal group; any allegations of knowing association with a member of La Cosa Nostra or any other person enjoined from participating in Union affairs; conduct that in the Independent Disciplinary Officer's view brings reproach upon the Union; any failure by an IBT entity to pursue and/or decide in a lawful, responsible, and timely manner a matter that has been referred to it pursuant to the Final Order; and any failure to cooperate fully with the Independent Disciplinary Officers in any investigation of the foregoing.

2. The Independent Investigation Officer's investigatory authority shall include, but not be limited to, the authority:

a. To cause the audit or examination of the books of the IBT or any affiliated IBT body at any time to the extent that the Independent Investigations Officer may determine necessary.

b. To take and require sworn statements or sworn in-person examinations of any officer, member, employee,

representative, or agent of the IBT, provided that the Independent Disciplinary Officers have given the person to be examined at least ten (10) days advance notice in writing and also provided that the person to be examined has the right to be represented by an IBT member or legal counsel of the person's choosing during the course of said examination. Failure to appear for a duly-noticed in-person examination shall be deemed a failure to cooperate fully with the Independent Disciplinary Officers.

c. During his or her first five-year term of office, as defined in the Final Order, to take, upon notice and application to the United States District Court for the Southern District of New York, which shall include affidavit(s) in support thereof, the sworn statements, sworn in-person examinations, or documents/records of persons or entities not covered in the foregoing subparagraph (b).

3. The Independent Disciplinary Officers' investigatory authority shall include, but not be limited to, the authority:

a. To receive, no less than one week prior to any meeting of the GEB, the agenda for the meeting, and to attend meetings or portions of meetings of the GEB that relate in any way to the rights, duties, or activities of the Independent Disciplinary Officers.

b. To attend meetings of any affiliated body of the International Union.

c. To consult with and receive information from one

another and the Independent Election Supervisor appointed pursuant to the Final Order.

4. The Independent Review Officer's investigatory authority shall include, but not be limited to, the authority to:

a. Refer matters to the Independent Investigations Officer for investigation in accordance with these Rules.

b. In exercising the powers and authorities bestowed by paragraph 33 of the Final Order, direct the Independent Investigations Officer to make use of any of the investigatory powers set forth herein and the authorities set forth in paragraph 30 of the Final Order.

c. Examine and review actions taken by the appropriate IBT entity to implement the Independent Review Officer's decisions made pursuant to paragraph 35 of the Final Order. In so doing, the Independent Review Officer may direct the Independent Investigations Officer to make use of any of the investigatory powers set forth herein and the authorities set forth in paragraph 30 of the Final Order to ensure that the appropriate IBT entity properly implements the Independent Review Officer's decisions. Failure to timely take all action necessary to implement the Independent Review Officer's decision shall be deemed a failure to cooperate fully with the Independent Review Officer.

5. Pursuant to paragraph 30 of the Final Order, the

Independent Disciplinary Officers shall be apprised of and have the authority to review any disciplinary or trusteeship decision of the General President, GEB, or IBT, and the Independent Review Officer shall have the right to affirm, modify, or reverse any such decision. The Independent Review Officer's affirmance, modification, or reversal of any such decision shall be in writing and shall be final and binding.

a. If the Independent Review Officer so directs, the Independent Investigations Officer may make use of any of the investigatory powers set forth herein and the authorities set forth in paragraph 30 of the Final Order to ensure that the General President, GEB, or IBT properly informs the Independent Disciplinary Officers of any disciplinary or trusteeship decision.

b. Failure to inform the Independent Disciplinary Officers of any such disciplinary or trusteeship decision, or to enforce any decision of the Independent Review Officer affirming, modifying, or reversing any such disciplinary or trusteeship decision shall be deemed a failure to cooperate fully with the Independent Disciplinary Officers.

6. The Independent Investigations Officer may establish a toll-free telephone service for purposes of receiving reports of corruption involving the IBT and its affiliates.

7. The Independent Disciplinary Officers shall have the authority to inform the General President and the GEB, the IBT and/or any IBT affiliates and membership,

of the identities of persons or entities who are or have been the subject of disciplinary action by the Independent Review Officer, and/or who are or have been identified as members or associates of La Cosa Nostra or any other organized crime group, for purposes of informing the members, officers, employees, agents and representatives of the IBT and its affiliates that association with or employment of these persons or entities may be cause for investigative or disciplinary action.

C. PURPOSE OF HEARING

A fair and impartial hearing shall be conducted before the Independent Review Officer. The purpose of the hearing shall be to determine whether the proposed findings, charges, or recommendations regarding discipline or trusteeship found in the Independent Investigations Officer's Investigative Report are supported by a preponderance of reliable evidence.

D. CONTENTS OF NOTICE

1. The Independent Review Officer shall determine the date, time and place of the hearing, and shall serve a Hearing Notice of such on the person charged, or the IBT affiliate subject to trusteeship, the Independent Investigations Officer, and any other person or entity deemed to have an interest in the proceeding. The person charged or the IBT affiliate subject to trusteeship, shall be given a reasonable time, in no event less than ten (10) days, to prepare for the hearing.

2. In addition to including the date, time and place of

the hearing, the Hearing Notice shall include a copy of the Independent Investigations Officer's Investigative Report and a copy of these Hearing Rules .

E. SERVICE OF NOTICE

1. If the person charged, or the IBT affiliate subject to trusteeship, is represented by counsel, the Hearing Notice shall be served on such counsel by first-class mail, postage prepaid.

2. If the person charged, or the IBT affiliate subject to trusteeship, is not represented by counsel, then the Hearing Notice shall be served by registered or certified mail, return receipt requested, in accordance with the following procedure.

a. In the case of an individual, the registered or certified mailing, return receipt requested, shall be made to the individual's last known home address. If that mailing is refused, the Hearing Notice shall be served by first class mail, postage prepaid, to the individual's last known home address. The modes of mail service may be made simultaneously. If a last address is not known, the Hearing Notice shall be mailed by first class mail, postage prepaid, to the principal office, as listed in the IBT's Roster, of the Local Union of which that individual is a member. If that individual is not currently a member of a Local Union, the Hearing Notice shall be mailed by first class mail, postage prepaid, to the principal office, as listed in the IBT's Roster, of the last Local Union of which that individual was a member.

b. In the case of an IBT affiliate, the registered

or certified mailing, return receipt requested, shall be made to that affiliate's principal office as listed in the IBT's Roster. If the registered or certified mailing is refused, the Hearing Notice shall be served by first class mail, postage prepaid, to that affiliate's principal office as listed in the IBT's Roster. The modes of mail service may be made simultaneously.

3. Nothing herein shall preclude personal service of the Hearing Notice. In the case of an individual, personal service may be made by delivering a copy of the Hearing Notice to the individual, or by leaving a copy thereof at the individual's home with some person of suitable age and discretion then residing therein. In the case of an IBT, personal service may be made by delivering the Hearing Notice to any member of the entity's Executive Board.

E. REPRESENTATION

The person charged or the IBT affiliate subject to trusteeship shall have the right to be represented at the hearing by counsel or by an IBT member in good standing.

F. HEARING ATTENDANCE

The failure of a charged party or an IBT affiliate subject to trusteeship to attend a hearing shall constitute a waiver of the right to attend and the Independent Review Officer may conduct the hearing in the absence of the charged party or IBT entity. Notwithstanding a failure of a charged party or IBT affiliate to attend a hearing, the Independent Review Officer may permit the charged party or IBT entity to submit a written memorandum either pre- or post-hearing.

G. OPEN HEARING

Subject to space limitations and the interest of conducting an orderly hearing, hearings shall be open to IBT members in good standing.

H. HEARING PROCEDURE

The hearings shall be conducted pursuant to these Hearing Rules and rules and procedures generally applicable to labor arbitration hearing.

I. TRANSCRIPT OF PROCEEDINGS

The person charged or the IBT affiliate subject to trusteeship shall have the option of having a court stenographer present at the hearing at their own expense and in such an event, a copy of the transcript shall be provided to the Independent Review Officer and the Independent Investigations Officer. If the person charged or the IBT affiliate subject to trusteeship elects not to have a court stenographer present at the hearing, they shall so notify the Independent Investigations Officer at least five days prior to the hearing date.

J. OPENING/CLOSING STATEMENTS

Opening and closing statements will generally not be permitted as a matter of course. However, the Independent Review Officer may permit the parties to make brief opening and closing remarks, if the he or she deems such to be helpful.

K. ORDER OF PRESENTATION

The Independent Investigations Officer shall first present his or her evidence, explaining the relevance of each item as it is introduced. The Independent Investigations Officer shall then, if he or she chooses, conduct direct examination of witnesses, if any. Cross-examination and re-direct examination of the Independent Investigations Officer's witnesses shall be allowed. After the Independent Investigations Officer presents his or her evidence and witnesses, the charged person or the IBT affiliate subject to trusteeship may present his, her or its evidence and conduct direct examination of witnesses. Cross-examination and re-direct examination of such witnesses shall be allowed. Before testifying, every witness shall be required to declare that he or she will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so.

L. EVIDENTIARY OBJECTIONS AND ADMISSIBILITY OF EVIDENCE

Evidentiary objections, regardless of grounds, may be made during the hearing and may be addressed by the Independent Review Officer at that time. However, such objections are not waived if they are not made during the hearing, and all objections can be made in the post-hearing submissions. In any event, all evidence and testimony offered at the hearing may be accepted, by the Independent Review Officer, to be weighed post-hearing in light of the hearing testimony and post-hearing submissions.

M. GOVERNMENT OBJECTION

If, during the course of a hearing, counsel to a law enforcement witness exercises a law enforcement, or similar, privilege, that portion of the witness' testimony which has not been objected to, if any, shall be taken to be weighed post-hearing, in light of the hearing and post-hearing submissions.

N. POST-HEARING SUBMISSIONS

1. Content of Submissions

a. The Independent Investigations Officer shall submit a post-hearing memorandum addressing the merits of the charges, evidentiary issues, and other matters. The charged person or the IBT affiliate subject to trusteeship shall submit a response memorandum also addressing the merits, evidentiary issues, and other matters. Thereafter, the Independent Investigations Officer may submit a reply to the issues and arguments raised in the response filed by the charged person or the IBT affiliate subject to trusteeship.

b. When an individual is charged, a schedule of any and all benefits to which that individual is entitled, including the payment of that individual's legal fees by any IBT-affiliated entity in connection with the charged matter, shall be submitted to the Independent Investigations Officer and the Independent Review Officer at, or prior to, the hearing. This submission shall be used for the purpose of determining the sanctions upon employee benefits, including health, welfare and pension benefits, to be imposed in the event a decision issues that is adverse to the individual charged. In his post-

hearing memorandum, the Independent Investigations Officer shall state his or her position on the issue of alienating such benefits. In accordance with the briefing schedule that is set, the charged person(s) shall include a response on this issue in the post-hearing response memorandum.

c. The Independent Review Officer may request further submissions from the charged person, the IBT affiliate subject to trusteeship, or the Independent Investigations Officer on any issue he or she considers appropriate.

2. Schedule of Submissions

Subject to the Independent Review Officer setting a different schedule, post-hearing memoranda shall be submitted in accordance with the following schedule:

- Within fourteen (14) days after receipt of the hearing transcript, the Independent Investigations Officer shall deliver his or her post-hearing memorandum to the Independent Review Officer and to the charged person or the IBT affiliate subject to trusteeship.
- Within ten (10) days after receipt of the Independent Investigations Officer's memorandum, the charged person, or the IBT affiliate subject to trusteeship, shall deliver an answering memorandum to the Independent Review Officer and to the Independent Investigations Officer.
- Within five (5) days after receipt of the answering memorandum, the Independent Investigations Officer shall deliver his reply memorandum to the Independent Review Officer and to the charged person, or the IBT affiliate subject to trusteeship.

O. INDEPENDENT REVIEW OFFICER'S DECISION

1. After receipt of the post-hearing submissions, the Independent Review Officer shall issue a written decision, with copies to be sent to the charged person or the IBT affiliate subject to trusteeship, to the Independent Review Officer and to the IBT General President, each member of the IBT General Executive Board, and all affected parties, including the appropriate IBT entity designated by the Independent Review Officer with enforcement responsibility.

2. If the proposed finding(s), charge(s), or recommendation(s) contained in the Investigative Report are sustained, the Independent Review Officer shall have the authority to impose disciplinary measures or conditions of trusteeship authorized by the IBT Constitution, the Final Order and applicable law.

3. The appropriate IBT entity designated by the Independent Review Officer with enforcement responsibility, the IBT General President, and the IBT General Executive Board, shall immediately take all action necessary to implement the decision of the Independent Review Officer, consistent with the IBT Constitution and applicable federal law.

4. Decisions of the Independent Review Officer shall be final and binding.

RULES GOVERNING THE AUTHORITIES

OF

**INDEPENDENT DISCIPLINARY OFFICERS AND THE
CONDUCT OF HEARINGS**

**RULES GOVERNING THE AUTHORITIES OF INDEPENDENT DISCIPLINARY OFFICERS AND THE
CONDUCT OF HEARINGS**

A. INTRODUCTION

These Rules Governing the Authorities of Independent Disciplinary Officers and the Conduct of Hearings (hereinafter "Disciplinary Rules") outline the authorities of the Independent Disciplinary Officers and the procedure in conducting hearings by the Independent Review Officer on disciplinary matters concerning IBT members facing disciplinary charges and IBT entities subject to trusteeship. The authority for implementing the Disciplinary Rules is provided by the Final Agreement and Order in 88 Civ. 4486 ("Final Agreement and Order"). In addition, these Disciplinary Rules may be modified or construed by the Independent Review Officer to ensure a just result in every matter.

B. AUTHORITIES OF THE INDEPENDENT DISCIPLINARY OFFICERS

1. The Independent Investigations Officer is authorized to investigate any allegations of corruption in the IBT, including, but not limited to: bribery; extortion; embezzlement; use of threats of force or violence against members to interfere with or extort their rights under the IBT Constitution or their union democracy rights under applicable law, including their rights to assemble, express their views, vote, seek election to office, support the candidates of their choice, and participate in the affairs of the IBT;

acceptance of money or other things of value from any employer or agent of an employer, in violation of applicable law; any act of racketeering activity, as defined in applicable law; aiding and abetting any act of racketeering, including the extortion of IBT members' union democracy rights as defined by applicable law; any allegations of domination, control, or influence over any IBT affiliate, officer, member, employee, or representative by any organized crime family or any other criminal group; any allegations of knowing association with a member of La Cosa Nostra or any other person enjoined from participating in Union affairs; conduct that in the Independent Disciplinary Officer's view brings reproach upon the Union; any failure by an IBT entity to pursue and/or decide in a lawful, responsible, and timely manner a matter that has been referred to it pursuant to the Final Order; and any failure to cooperate fully with the Independent Disciplinary Officers in any investigation of the foregoing.

2. The Independent Investigation Officer's investigatory authority shall include, but not be limited to, the authority:

a. To cause the audit or examination of the books of the IBT or any affiliated IBT body at any time to the extent that the Independent Investigations Officer may determine necessary.

b. To take and require sworn statements or sworn in-person examinations of any officer, member, employee,

representative, or agent of the IBT, provided that the Independent Disciplinary Officers have given the person to be examined at least ten (10) days advance notice in writing and also provided that the person to be examined has the right to be represented by an IBT member or legal counsel of the person's choosing during the course of said examination. Failure to appear for a duly-noticed in-person examination shall be deemed a failure to cooperate fully with the Independent Disciplinary Officers.

c. During his or her first five-year term of office, as defined in the Final Order, to take, upon notice and application to the United States District Court for the Southern District of New York, which shall include affidavit(s) in support thereof, the sworn statements, sworn in-person examinations, or documents/records of persons or entities not covered in the foregoing subparagraph (b).

3. The Independent Disciplinary Officers' investigatory authority shall include, but not be limited to, the authority:

a. To receive, no less than one week prior to any meeting of the GEB, the agenda for the meeting, and to attend meetings or portions of meetings of the GEB that relate in any way to the rights, duties, or activities of the Independent Disciplinary Officers.

b. To attend meetings of any affiliated body of the International Union.

c. To consult with and receive information from one

another and the Independent Election Supervisor appointed pursuant to the Final Order.

4. The Independent Review Officer's investigatory authority shall include, but not be limited to, the authority to:

a. Refer matters to the Independent Investigations Officer for investigation in accordance with these Rules.

b. In exercising the powers and authorities bestowed by paragraph 33 of the Final Order, direct the Independent Investigations Officer to make use of any of the investigatory powers set forth herein and the authorities set forth in paragraph 30 of the Final Order.

c. Examine and review actions taken by the appropriate IBT entity to implement the Independent Review Officer's decisions made pursuant to paragraph 35 of the Final Order. In so doing, the Independent Review Officer may direct the Independent Investigations Officer to make use of any of the investigatory powers set forth herein and the authorities set forth in paragraph 30 of the Final Order to ensure that the appropriate IBT entity properly implements the Independent Review Officer's decisions. Failure to timely take all action necessary to implement the Independent Review Officer's decision shall be deemed a failure to cooperate fully with the Independent Review Officer.

5. Pursuant to paragraph 30 of the Final Order, the

Independent Disciplinary Officers shall be apprised of and have the authority to review any disciplinary or trusteeship decision of the General President, GEB, or IBT, and the Independent Review Officer shall have the right to affirm, modify, or reverse any such decision. The Independent Review Officer's affirmance, modification, or reversal of any such decision shall be in writing and shall be final and binding.

a. If the Independent Review Officer so directs, the Independent Investigations Officer may make use of any of the investigatory powers set forth herein and the authorities set forth in paragraph 30 of the Final Order to ensure that the General President, GEB, or IBT properly informs the Independent Disciplinary Officers of any disciplinary or trusteeship decision.

b. Failure to inform the Independent Disciplinary Officers of any such disciplinary or trusteeship decision, or to enforce any decision of the Independent Review Officer affirming, modifying, or reversing any such disciplinary or trusteeship decision shall be deemed a failure to cooperate fully with the Independent Disciplinary Officers.

6. The Independent Investigations Officer may establish a toll-free telephone service for purposes of receiving reports of corruption involving the IBT and its affiliates.

7. The Independent Disciplinary Officers shall have the authority to inform the General President and the GEB, the IBT and/or any IBT affiliates and membership,

of the identities of persons or entities who are or have been the subject of disciplinary action by the Independent Review Officer, and/or who are or have been identified as members or associates of La Cosa Nostra or any other organized crime group, for purposes of informing the members, officers, employees, agents and representatives of the IBT and its affiliates that association with or employment of these persons or entities may be cause for investigative or disciplinary action.

C. PURPOSE OF HEARING

A fair and impartial hearing shall be conducted before the Independent Review Officer. The purpose of the hearing shall be to determine whether the proposed findings, charges, or recommendations regarding discipline or trusteeship found in the Independent Investigations Officer's Investigative Report are supported by a preponderance of reliable evidence.

D. CONTENTS OF NOTICE

1. The Independent Review Officer shall determine the date, time and place of the hearing, and shall serve a Hearing Notice of such on the person charged, or the IBT affiliate subject to trusteeship, the Independent Investigations Officer, and any other person or entity deemed to have an interest in the proceeding. The person charged or the IBT affiliate subject to trusteeship, shall be given a reasonable time, in no event less than ten (10) days, to prepare for the hearing.

2. In addition to including the date, time and place of

the hearing, the Hearing Notice shall include a copy of the Independent Investigations Officer's Investigative Report and a copy of these Hearing Rules .

E. SERVICE OF NOTICE

1. If the person charged, or the IBT affiliate subject to trusteeship, is represented by counsel, the Hearing Notice shall be served on such counsel by first-class mail, postage prepaid.

2. If the person charged, or the IBT affiliate subject to trusteeship, is not represented by counsel, then the Hearing Notice shall be served by registered or certified mail, return receipt requested, in accordance with the following procedure.

a. In the case of an individual, the registered or certified mailing, return receipt requested, shall be made to the individual's last known home address. If that mailing is refused, the Hearing Notice shall be served by first class mail, postage prepaid, to the individual's last known home address. The modes of mail service may be made simultaneously. If a last address is not known, the Hearing Notice shall be mailed by first class mail, postage prepaid, to the principal office, as listed in the IBT's Roster, of the Local Union of which that individual is a member. If that individual is not currently a member of a Local Union, the Hearing Notice shall be mailed by first class mail, postage prepaid, to the principal office, as listed in the IBT's Roster, of the last Local Union of which that individual was a member.

b. In the case of an IBT affiliate, the registered

or certified mailing, return receipt requested, shall be made to that affiliate's principal office as listed in the IBT's Roster. If the registered or certified mailing is refused, the Hearing Notice shall be served by first class mail, postage prepaid, to that affiliate's principal office as listed in the IBT's Roster. The modes of mail service may be made simultaneously.

3. Nothing herein shall preclude personal service of the Hearing Notice. In the case of an individual, personal service may be made by delivering a copy of the Hearing Notice to the individual, or by leaving a copy thereof at the individual's home with some person of suitable age and discretion then residing therein. In the case of an IBT, personal service may be made by delivering the Hearing Notice to any member of the entity's Executive Board.

E. REPRESENTATION

The person charged or the IBT affiliate subject to trusteeship shall have the right to be represented at the hearing by counsel or by an IBT member in good standing.

F. HEARING ATTENDANCE

The failure of a charged party or an IBT affiliate subject to trusteeship to attend a hearing shall constitute a waiver of the right to attend and the Independent Review Officer may conduct the hearing in the absence of the charged party or IBT entity. Notwithstanding a failure of a charged party or IBT affiliate to attend a hearing, the Independent Review Officer may permit the charged party or IBT entity to submit a written memorandum either pre- or post-hearing.

G. OPEN HEARING

Subject to space limitations and the interest of conducting an orderly hearing, hearings shall be open to IBT members in good standing.

H. HEARING PROCEDURE

The hearings shall be conducted pursuant to these Hearing Rules and rules and procedures generally applicable to labor arbitration hearing.

I. TRANSCRIPT OF PROCEEDINGS

The person charged or the IBT affiliate subject to trusteeship shall have the option of having a court stenographer present at the hearing at their own expense and in such an event, a copy of the transcript shall be provided to the Independent Review Officer and the Independent Investigations Officer. If the person charged or the IBT affiliate subject to trusteeship elects not to have a court stenographer present at the hearing, they shall so notify the Independent Investigations Officer at least five days prior to the hearing date.

J. OPENING/CLOSING STATEMENTS

Opening and closing statements will generally not be permitted as a matter of course. However, the Independent Review Officer may permit the parties to make brief opening and closing remarks, if the he or she deems such to be helpful.

K. ORDER OF PRESENTATION

The Independent Investigations Officer shall first present his or her evidence, explaining the relevance of each item as it is introduced. The Independent Investigations Officer shall then, if he or she chooses, conduct direct examination of witnesses, if any. Cross-examination and re-direct examination of the Independent Investigations Officer's witnesses shall be allowed. After the Independent Investigations Officer presents his or her evidence and witnesses, the charged person or the IBT affiliate subject to trusteeship may present his, her or its evidence and conduct direct examination of witnesses. Cross-examination and re-direct examination of such witnesses shall be allowed. Before testifying, every witness shall be required to declare that he or she will testify truthfully, by oath or affirmation administered in a form calculated to awaken the witness' conscience and impress the witness' mind with the duty to do so.

L. EVIDENTIARY OBJECTIONS AND ADMISSIBILITY OF EVIDENCE

Evidentiary objections, regardless of grounds, may be made during the hearing and may be addressed by the Independent Review Officer at that time. However, such objections are not waived if they are not made during the hearing, and all objections can be made in the post-hearing submissions. In any event, all evidence and testimony offered at the hearing may be accepted, by the Independent Review Officer, to be weighed post-hearing in light of the hearing testimony and post-hearing submissions.

M. GOVERNMENT OBJECTION

If, during the course of a hearing, counsel to a law enforcement witness exercises a law enforcement, or similar, privilege, that portion of the witness' testimony which has not been objected to, if any, shall be taken to be weighed post-hearing, in light of the hearing and post-hearing submissions.

N. POST-HEARING SUBMISSIONS

1. Content of Submissions

a. The Independent Investigations Officer shall submit a post-hearing memorandum addressing the merits of the charges, evidentiary issues, and other matters. The charged person or the IBT affiliate subject to trusteeship shall submit a response memorandum also addressing the merits, evidentiary issues, and other matters. Thereafter, the Independent Investigations Officer may submit a reply to the issues and arguments raised in the response filed by the charged person or the IBT affiliate subject to trusteeship.

b. When an individual is charged, a schedule of any and all benefits to which that individual is entitled, including the payment of that individual's legal fees by any IBT-affiliated entity in connection with the charged matter, shall be submitted to the Independent Investigations Officer and the Independent Review Officer at, or prior to, the hearing. This submission shall be used for the purpose of determining the sanctions upon employee benefits, including health, welfare and pension benefits, to be imposed in the event a decision issues that is adverse to the individual charged. In his post-

hearing memorandum, the Independent Investigations Officer shall state his or her position on the issue of alienating such benefits. In accordance with the briefing schedule that is set, the charged person(s) shall include a response on this issue in the post-hearing response memorandum.

c. The Independent Review Officer may request further submissions from the charged person, the IBT affiliate subject to trusteeship, or the Independent Investigations Officer on any issue he or she considers appropriate.

2. Schedule of Submissions

Subject to the Independent Review Officer setting a different schedule, post-hearing memoranda shall be submitted in accordance with the following schedule:

- Within fourteen (14) days after receipt of the hearing transcript, the Independent Investigations Officer shall deliver his or her post-hearing memorandum to the Independent Review Officer and to the charged person or the IBT affiliate subject to trusteeship.
- Within ten (10) days after receipt of the Independent Investigations Officer's memorandum, the charged person, or the IBT affiliate subject to trusteeship, shall deliver an answering memorandum to the Independent Review Officer and to the Independent Investigations Officer.
- Within five (5) days after receipt of the answering memorandum, the Independent Investigations Officer shall deliver his reply memorandum to the Independent Review Officer and to the charged person, or the IBT affiliate subject to trusteeship.

O. INDEPENDENT REVIEW OFFICER'S DECISION

1. After receipt of the post-hearing submissions, the Independent Review Officer shall issue a written decision, with copies to be sent to the charged person or the IBT affiliate subject to trusteeship, to the Independent Review Officer and to the IBT General President, each member of the IBT General Executive Board, and all affected parties, including the appropriate IBT entity designated by the Independent Review Officer with enforcement responsibility.

2. If the proposed finding(s), charge(s), or recommendation(s) contained in the Investigative Report are sustained, the Independent Review Officer shall have the authority to impose disciplinary measures or conditions of trusteeship authorized by the IBT Constitution, the Final Order and applicable law.

3. The appropriate IBT entity designated by the Independent Review Officer with enforcement responsibility, the IBT General President, and the IBT General Executive Board, shall immediately take all action necessary to implement the decision of the Independent Review Officer, consistent with the IBT Constitution and applicable federal law.

4. Decisions of the Independent Review Officer shall be final and binding.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,)
)
)
 Plaintiff,)
 v.) No. 88 Civ. 4486 (LAP)
)
 INTERNATIONAL BROTHERHOOD OF)
 TEAMSTERS, *et al.,*)
)
 Defendants.)

**JOINT MEMORANDUM IN SUPPORT OF APPROVAL OF THE
FINAL AGREEMENT AND ORDER AND STIPULATION FOR DISMISSAL**

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The United States of America (the “Government”) and the International Brotherhood of Teamsters (“IBT” or “Union”) (collectively, the “Parties”) respectfully submit this memorandum in support of their joint application for approval of the proposed Final Agreement and Order (hereinafter “Settlement Agreement” attached as Ex. 1 to the Notice of Motion) and Stipulation for Dismissal. After careful consideration, the Government and the IBT agree that the Settlement Agreement is fair, reasonable, and consistent with the public interest. Accordingly, the Parties respectfully urge the Court to enter the proposed Orders.

BACKGROUND

The Consent Decree

On June 28, 1988, the Government commenced this action seeking relief against the IBT, IBT’s General Executive Board, various IBT officers, the “Commission” of La Cosa Nostra, and various asserted members and associates of La Cosa Nostra. The Government brought charges seeking civil remedies under the Racketeer Influenced and Corrupt Organizations (“RICO”) Act, 18 U.S.C. § 1964. Among other things, the Government’s complaint alleged that the La Cosa Nostra defendants, aided by IBT defendants, had seized “an interest in and control of” the Union to implement an extensive “pattern of racketeering activity” that included mail fraud, embezzlement, bribery, and murder. Compl. ¶ 55. The claimed pattern of racketeering encompassed the “use of force, violence and fear to intimidate union members,” Compl. ¶¶ 72-73, and the systematic racketeering activities by which corrupt union officers engaged in “fraudulent deprivation of union members’ money and property rights,” Compl. ¶¶ 74-80.

On March 14, 1989, this Court approved a Consent Decree that resolved the Government’s claims against the IBT defendants.¹ The Consent Decree enjoined certain activity

¹ Specifically, the Consent Decree resolved the United States’ claims against the IBT and its General Executive Board, William J. McCarthy, Weldon Mathis, Joseph Trerotola, Joseph W. Morgan, Edward M. Lawson, Arnold

and instituted institutional reforms of the IBT's disciplinary and electoral processes. Among other features, the Decree:

- Permanently enjoined all IBT members, officers, employees, and agents from committing acts of racketeering activity and knowingly associating with various organized crime groups or persons otherwise enjoined from participating in union affairs;
- Provided for "one-member, one-vote" direct elections of IBT International Officers, subject to independent oversight, whereby IBT locals' rank-and-file members would elect delegates to a nominating convention, convention delegates would nominate candidates, and IBT rank-and-file members would then vote in a general election on all nominees who received 5% or more of the delegates' votes;
- Established the Court-appointed, three-member Independent Review Board ("IRB") as a permanent part of the Union's constitution to investigate and prosecute wrongdoing and oversee the IBT's implementation of disciplinary or trusteeship charges.

The Decree has been subsequently clarified and modified by agreement of the Parties and by Court order.

Progress Since Entry of the Consent Decree

The Parties agree that the circumstances have vastly changed since 1988 and, under the Consent Decree, significant progress has been made in fighting organized crime over the past quarter-century. While threats persist, the organized crime influence the Government found to have reached the highest echelons of IBT leadership in 1988 has long been expunged. The number and gravity of disciplinary offenses within the Union have substantially diminished over time. In that regard, the IRB has served as an effective disciplinary infrastructure with a

Weinmeister, Donald Peters, Walter J. Shea, Harold Friedman, Jack D. Cox, Don L. West, Michael J. Riley, Theodore Cozza and Daniel Ligurotis. (*See* Settlement Agreement, Ex. A).

demonstrable public record of punishing infractions. The electoral system that once impeded members from holding to account leaders who may have been corrupted by organized crime, under which International Officers were elected by local union delegates, has been overhauled and replaced with a system of one-member, one-vote democratic governance. Indeed, all IBT International Officers have been directly elected by rank-and-file members for the past five successive elections. As a result of the Consent Decree, there has been significant and positive change in the culture and processes of the IBT.

The Parties agree that circumstances now warrant diminishing and ultimately eliminating the Government's role in the IBT's internal disciplinary and electoral functions (except as otherwise provided in the Settlement Agreement), while ensuring that positive gains and reforms undertaken pursuant to the Consent Decree are maintained.

THE PROPOSED SETTLEMENT AGREEMENT

After extensive settlement negotiations taking place over a number of years, the Government and the IBT reached the proposed global Settlement Agreement. The Settlement Agreement is carefully calibrated to safeguard gains and reforms the IBT has made over the past 25 years while providing for the Government's relinquishment of its role in the affairs of the IBT, except as otherwise expressly provided in the Settlement Agreement. Key features of the Settlement Agreement include:

- *Dismissal.* The Parties agree that the above-captioned action shall be dismissed with prejudice, and the March 14, 1989 Consent Decree replaced and superseded, upon entry of the Settlement Agreement, subject to the terms of the Settlement Agreement. (*See* Settlement Agreement ¶ 56 & Proposed Order). The Parties also agree that the Court will

retain continuing jurisdiction to enforce the terms of the Settlement Agreement. (*See* Settlement Agreement ¶ 6 & Proposed Order).

- *Permanent Injunctions.* The Settlement Agreement retains all permanent injunctions set forth in the Consent Decree, including, but not limited to, permanently enjoining all IBT members, officers, employees, and agents from committing acts of racketeering activity and knowingly associating with various organized crime groups or persons otherwise enjoined from participating in union affairs, and interfering with the work of persons appointed to effectuate the Settlement Agreement. (*See* Settlement Agreement ¶¶ 1-5).
- *Transition Period.* Except as otherwise expressly provided in the Settlement Agreement, the Parties agree that the Government will relinquish its role in the affairs of the IBT after a transition period ending five years after entry of the Settlement Agreement by the Court (the “Transition Period”). The Government will relinquish its right under the Consent Decree to elect Department of Labor Supervision of IBT elections and its right to require the maintenance of the IRB, pursuant to the IBT’s commitment to establish and maintain effective and independent supervision of IBT elections and an effective and independent disciplinary mechanism. (*See id.* ¶ 8).
- *Union Discipline.* The IRB will continue to operate for one year following entry of the Settlement Agreement by the Court. (*See id.* ¶ 24). During that time, the IBT will establish an effective and independent disciplinary enforcement mechanism, comprised of one Independent Investigations Officer and one Independent Review Officer (collectively, the “Independent Disciplinary Officers”), with ultimate authority to discipline IBT members and require compliance with the IBT Constitution and rules. (*Id.* ¶¶ 25-26; *see also id.* ¶¶ 31-36). Generally, the Settlement Agreement authorizes the IBT Disciplinary Officers to exercise

such investigative and disciplinary authority as previously exercised by the IRB, as well as the authority that the General President, General Secretary-Treasurer, and General Executive Board are authorized and empowered to exercise pursuant to the IBT Constitution, as well as any and all applicable provisions of law. (*Id.* ¶ 30). The IBT's independent disciplinary enforcement mechanism will take effect one year following entry of the Settlement Agreement by the Court. (*Id.* ¶ 27). During the Transition Period, the Independent Disciplinary Officers shall be selected jointly by the Government and the IBT. (*Id.* ¶ 28). After the Transition Period, the Independent Disciplinary Officers shall be appointed by the IBT, on notice to the Government, in accordance with the qualifications set forth in the IBT Constitution and Settlement Agreement. (*Id.*).

- *Disciplinary Rules.* The Settlement Agreement sets forth the investigative and disciplinary authorities of the Independent Disciplinary Officers and incorporates a set of Disciplinary Rules, which further details those authorities and sets forth rules governing the conduct of hearings occurring before the Independent Review Officer. (*See id.* ¶¶ 30, 35, 39 & Ex. D). During the Transition Period, the IBT will require written consent of the Government to make material changes to the Disciplinary Rules. (*Id.* ¶ 40). After the Transition Period, upon advance written notice to the Government, the IBT may make material changes to the Disciplinary Rules without written consent of the Government, subject to the Government's right to apply to the Court to disapprove a change if it shows, by a preponderance of the evidence, that the change is inconsistent with the terms and objectives of the Settlement Agreement or otherwise threatens to undermine the independence or effectiveness of the independent disciplinary enforcement mechanism. (*Id.*).

- *Reporting of Disciplinary Matters.* Throughout the Independent Disciplinary Officers' first five-year terms of office, the IBT must provide the Government with copies of all written reports issued by the Independent Investigations Officer and all decisions issued by the Independent Review Officer, as well as notice of any lawsuit by any person or entity that challenges or seeks review of union discipline imposed, recommended or approved by the IBT Disciplinary Officers (as well as lawsuits challenging any IRB actions taken during the first year following entry of the Settlement Agreement by the Court). (*See id.* ¶ 37). In addition, the Settlement Agreement requires the Independent Review Officer to provide Union members with annual reports of the work of the IBT Disciplinary Officers, detailing, among other things, the disciplinary, trusteeship, compliance, and other actions taken by the IBT Disciplinary Officers during the preceding year. The IBT is obligated to provide copies of all such reports to the Government. (*See id.* ¶¶ 41-42).
- *International Elections.* The IBT will permanently retain the "one-member, one-vote" direct elections of IBT International Officers which were adopted by the IBT at the 2001 IBT Convention, as well as certain other structural electoral reforms implemented by the Consent Decree and enshrined in the 2011 IBT Constitution. (*Id.* ¶ 10). All elections shall be supervised by an Independent Election Supervisor appointed by the IBT, with the IBT bearing the costs of independent supervision. (*Id.* ¶¶ 12-14).
- *Election Rules.* All elections shall be conducted pursuant to Election Rules designed to ensure fair, free, and democratic elections. (*See id.* ¶ 16). During the Transition Period, no material changes to the 2011 Election Rules may be made unless proposed by the Independent Election Supervisor with the written consent of the Government and the IBT. (*Id.* ¶ 19). After the Transition Period, material changes may be made by the IBT, on notice

to the Government and with the approval of the Independent Election Supervisor, if consistent with federal law, the IBT Constitution, and the Settlement Agreement. (*Id.* ¶ 20).

The authority to interpret and enforce the Election Rules lies at all times with the Independent Election Supervisor. (*Id.* ¶ 18).

- *Nomination Threshold.* For the 2016 and 2021 IBT International Officer elections, the IBT will maintain a maximum nomination threshold of 5%, whereby nominees with 5% of delegate votes qualify as general election candidates. (*Id.* ¶ 11). After the 2021 election, the IBT's democratically elected delegates or membership may change the nomination threshold, subject to the Government's right to apply to the Court to nullify any such change if it shows, by a preponderance of the evidence, that the proposed change to the nominating threshold will prevent the election system from continuing to function or will cause it to function ineffectively or without adequate independence; or that the amendment(s) will deprive members of their reasonable opportunity to nominate candidates, hold office, vote for and otherwise support candidates of their choice. (*Id.*).
- *Campaign Materials.* The IBT will provide, through conforming Election Rules, for the distribution of one pre-election, direct mailing of candidate materials to IBT members not less than one week prior to the date scheduled for the mailing of ballots, in addition to four pre-election *Teamsters* Magazines distributing candidate materials. The IBT shall bear the costs of the mailing. (*Id.* ¶ 19).
- *Electronic Media.* The IBT will enhance the availability of electronic media resources for use by candidates to communicate with IBT members, by taking measures to enhance a database of member email addresses and promote awareness of candidate materials through new media properties. (*See id.* & Ex. C).

- *Reporting of Election Matters.* Following certification of the results of each IBT election conducted after the entry of the Settlement Agreement by the Court, the IBT must provide to the Union membership a report by the Independent Election Supervisor, which shall report in detail on the results of the election (including the statistics reflecting voter turnout and the number of contested delegate elections), assess the successes and shortcomings of the election process, determine any positive and negative trends in comparison to prior election cycles, and recommend changes to the election rules to address any negative trends and enhance the democratic process. (*See id.* ¶ 22). The IBT is also obligated to provide copies of all such reports to the Government. (*Id.*). In addition, at all times, the Independent Election Supervisor has the right to communicate with the membership concerning the IBT international election, including, for example, posting the election rules, any decisions on disputed matters, election results and logistical information. (*Id.*).

ARGUMENT

The Settlement Agreement Should Be Approved

There is a “strong judicial policy in favor of settlements.” *McReynolds v. Richards-Cantave*, 588 F.3d 790, 803 (2d Cir. 2009) (internal quotation marks omitted); *United States v. Hooker Chemical & Plastics Corp.*, 776 F.2d 410, 411 (2d Cir. 1985); *Patterson v. Newspaper and Mail Deliverers’ Union of N.Y. and Vicinity*, 514 F.2d 767, 771 (2d Cir. 1975). One reason for that policy is to avoid needless and costly litigation, thus promoting both “financial and judicial economy.” *Bano v. Union Carbide Corp.*, 273 F.3d 120, 129-30 (2d Cir. 2001) (internal quotation marks omitted); *Janneh v. GAF Corp.*, 887 F.2d 432, 434-35 (2d Cir. 1989) (under “strong judicial and public policies favoring out-of-court settlement . . . costs of litigation are reduced and crowded dockets are relieved”), *abrogated on other grounds*, 511 U.S. 863 (1994).

The Settlement Agreement here achieves that, avoiding substantial litigation over the ongoing viability of the Consent Decree.

The presumption in favor of settlement extends to settlements like this one, which plainly implicates a public interest. The public interest here in strong anti-corruption, anti-racketeering measures is undeniable and of paramount importance. *United States v. Int'l Bhd. of Teamsters* (“*Senese & Talerico*”), 941 F.2d 1292, 1297 (2d Cir. 1991). Indeed, the presumption in favor of settlement is particularly strong where, as here, “a government agency committed to the protection of the public interest’ has participated and endorsed the agreement.” *City of New York v. Exxon Corp.*, 697 F. Supp. 677, 692 (S.D.N.Y. 1988) (quoting *Wellman v. Dickinson*, 497 F. Supp. 824, 830 (S.D.N.Y. 1980), *aff’d*, 647 F.2d 163 (2d Cir. 1981)).

The Second Circuit recently clarified the standard for approval of settlements containing ongoing injunctive provisions, such as the one at issue here, in *U.S. S.E.C. v. Citigroup Global Markets, Inc.*, 752 F.3d 285 (2d Cir. 2014). The *Citigroup* test establishes a highly deferential approach to reviewing the Government’s substantive settlement decisions, stating that the district court should determine whether the settlement is “fair and reasonable, with the additional requirement that the ‘public interest would not be disserved,’” in the event the settlement includes injunctive relief. *Id.* at 294 (quoting *eBay, Inc. v. MercExchange*, 547 U.S. 388, 391 (2006)). Indeed, “[a]bsent a substantial basis in the record” for concluding that these elements are not satisfied, “the district court is *required* to enter the order.” *Id.* (emphasis added).

In that regard, the Circuit has emphasized four core factors that are relevant to the Court’s assessment of whether the Settlement Agreement is fair and reasonable, including (1) its “basic legality”; (2) whether its terms, “including its enforcement mechanism, are clear”; (3) whether it reflects a resolution of the actual claims in the complaint; and (4) whether it “is tainted by

improper collusion or corruption of some kind.” *Id.* at 294-295 (citations omitted). Importantly, however, the “primary focus” of the Court’s inquiry “should be on ensuring the consent decree is procedurally proper . . . taking care not to infringe on the [Government’s] discretionary authority to settle on a particular set of terms.” *Id.* at 295.

These factors are readily satisfied. First, the Court has the authority to enter the Settlement Agreement pursuant to any or all of the following: its inherent power; Federal Rule of Civil Procedure 60(b); and 18 U.S.C. § 1964. *Citigroup*, 752 F.3d at 294. Indeed, it is well established that courts possess broad equitable powers to modify consent decrees. *See Rufo v. Inmates of Suffolk County Jail*, 502 U.S. 367, 381 n.6 (1992) (“[T]he power of a court of equity to modify a decree of injunctive relief is long-established, broad, and flexible.”) (*quoting New York State Assn. for Retarded Children, Inc. v. Carey*, 706 F.2d 956, 967 (2d Cir. 1983)); *see also Brown v. Plata*, 131 S. Ct. 1910, 1946 (2011) (court “retains the authority, and the responsibility, to make further amendments to [an] existing order or any modified decree it may enter as warranted by the exercise of its sound discretion”). Second, the terms of the Parties’ agreement and its enforcement mechanism are clear. *Citigroup*, 752 F.3d at 295; *see also United States v. IBM Corp.*, 14 Civ. 936 (KMK), 2014 WL 3057960, at *3 (S.D.N.Y. July 7, 2014) (“By ‘clear,’ the Second Circuit appears to mean that decree ‘properly defines’ its key provisions.” (brackets omitted)), *order clarified*, 2014 WL 4626010 (Aug. 7, 2014). The Settlement Agreement sets forth in detail the permanent injunctions that survive dismissal of the action; the Court’s continuing authority to enforce the agreement; the terms that will permanently govern the Union’s electoral and disciplinary mechanisms; the standards by which the Government may seek further equitable relief from the Court; and the continued viability of Consent Decree precedent, among other things. Third, the Settlement Agreement reflects a resolution of the

claims in this lawsuit. *Citigroup*, 752 F.3d at 295. Indeed, by entering into the Settlement Agreement, the Parties expressly re-commit themselves to the original objectives of the Consent Decree, as well as to preserving the gains achieved by the Consent Decree and continuing to fight against criminal elements, organized crime, and corruption that prompted the Government's lawsuit and continues to threaten the Union today, all as reflected in the Settlement Agreement's permanent injunctions and provisions addressing permanent structural features of the Union's electoral and disciplinary mechanisms. Finally, the Settlement Agreement is undoubtedly the result of arms-length negotiations. Indeed, it is the product of extensive negotiations that have occurred over the course of many years, facilitated by the Court's involvement.

The Parties agree that the Settlement Agreement is comprehensive and advances their shared interest in safeguarding significant successes and reforms the IBT has undergone in the past 25 years while scaling down and ultimately eliminating the Government's role in the IBT's internal disciplinary and electoral functions, except as otherwise expressly provided in the Settlement Agreement. The terms of the proposed Settlement Agreement are fair, reasonable, and as described above, fully consistent with the public interest.

CONCLUSION

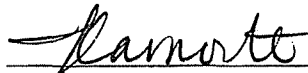
For the foregoing reasons, the Government and the IBT respectfully request that the Court approve and enter the Settlement Agreement and dismiss the above-captioned action subject to the provisions therein.

Respectfully submitted,

FOR PLAINTIFF UNITED STATES OF AMERICA

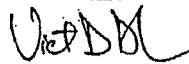
PREET BHARARA
United States Attorney for the
Southern District of New York

By:

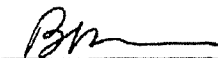


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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,)	
)	
<i>Plaintiff,</i>)	
v.)	No. 88 Civ. 4486 (LAP)
)	
INTERNATIONAL BROTHERHOOD OF)	
TEAMSTERS, <i>et al.,</i>)	
)	
<i>Defendants.</i>)	

[PROPOSED] ORDER OF DISMISSAL

Upon consideration of the Final Agreement and Order (the “Settlement Agreement” attached hereto as Exhibit 1) and the Parties’ joint motion for approval thereof, it is ORDERED that the above-captioned civil action be hereby dismissed with prejudice. The terms of the appended Settlement Agreement are incorporated into this order, and this Court shall retain jurisdiction to enforce those terms.

BY THE COURT:

Hon. LORETTA A. PRESKA
Chief Judge
U.S. District Court for the Southern District of New York