

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

FROM: The Independent Disciplinary Officers

Hon. Barbara S. Jones
Hon. Joseph E. diGenova

DATED: December 18, 2020

I. INTRODUCTION

The following is Magazine Report 4 of the Independent Disciplinary Officers ("IDO") for 2020 regarding activities from September 15, 2020 through December 18, 2020, conducted pursuant to the Final Agreement and Order of February 17, 2015.

II. STATUS OF OPERATIONS

The IDO wish to assure the membership that despite the ongoing Coronavirus crisis, the officers continue to operate to effectuate the purposes of the Final Order. The IIO office remains open under alternative staffing procedures designed to protect the IIO staff as well as the community at large, consistent with applicable government regulations and health department recommendations. Investigators continue to receive referrals from members throughout the country, and are pursuing those allegations both vigorously and safely. Unfortunately, it is the experience of the IIO and his staff of career Investigators that times of unusual

crisis are often times of unusual opportunity for those inclined toward waste, fraud, and abuse. The IIO is particularly vigilant during this time and will seek all appropriate disciplinary measures against those who would exploit the current situation for improper personal gain.

III. PROGRESS OF EXISTING MATTERS

A. International Vice President Rome Aloise

On February 14, 2020, the IIO issued a report to the IBT General Executive Board recommending that a charge be filed against Rome Aloise ("Aloise"), International Vice President, President of Joint Council 7, and Secretary Treasurer and principal officer of Local 853 for bringing reproach upon the IBT and violating his membership oath by: knowingly harming a fellow member, interfering with and inducing others to interfere with the performance of the Union's legal obligations, unreasonably failing to cooperate fully with a proceeding of the IRO, retaliating and threatening to retaliate against members for exercising their rights under the IBT Constitution, and committing an act of racketeering; all in violation of IBT Const., Article II, Section 2 (a); IBT Const., Art. XIX, Sections 7 (b) (2), (5), (10), and (11); IBT Const., Art. XIX, Sec. 14 (a); and 18 U.S.C. §875 (d).

The IIO's Report alleged that Aloise used his purported influence over IBT entities in California to threaten financial harm to a charitable organization, Instituto Laboral de La Raza

("La Raza"), in order to interfere in that organization's internal affairs to the detriment of a fellow member. The IIO further alleged that, notwithstanding the acquiescence of the La Raza board to his demands, Aloise's actions did in fact cause financial harm to La Raza and harmed his fellow member. The IIO further alleged Aloise's actions were in retaliation for the fellow member's good-faith efforts to comply with an Order of the IRO.

The IIO also alleged that Aloise engaged in a pattern of misconduct and contempt designed to circumvent the restrictions placed upon him by the IRO on December 22, 2017, as restated on January 19, 2018 and November 1, 2019. The IIO further alleged that, during the period of his suspension, Aloise threatened and publicly labeled fellow Teamsters as "rats" or "snitches," based upon his belief that they were cooperating with an IIO investigation and/or in retaliation for their good-faith attempts to comply with the IRO's December 22, 2017 Order.

On February 14, 2020, the IIO delivered to the General Executive Board of the IBT his Report outlining the foregoing allegations, supported by 89 exhibits comprising 1,771 pages of documents. On February 25, 2020, the General President adopted and filed the charges. Pursuant to Paragraph 32 of the Final Order, within 90 days of the IIO's referral (or by Thursday, May 14,

2020),¹ the General Executive Board was required to file with the IRO written findings setting forth the specific actions taken and the reason for such actions.

On March 9, 2020, the IBT appointed a Hearing Panel pursuant to IBT Constitution Article XIX. Due to logistical and safety concerns about conducting an in-person hearing during the ongoing Coronavirus pandemic, the Panel directed Aloise to present it with written arguments, together with the sworn declarations of any witnesses and any documents or exhibits he might wish to present in his defense. Aloise produced the sworn statements to the Panel on May 26, 2020.

With most of the testimony and evidence submitted in written form, the Panel conducted an in-person hearing on July 20, 2020, in Kansas City, Missouri. Counsel for the IBT participated remotely, and witnesses were not required to put themselves or others at risk by traveling to the hearing site. The hearing was completed the same day, July 20. Pursuant to the Panel's order, both Aloise and the IBT submitted their post-hearing briefs on August 26, 2020.

As required by IBT Constitution, Art. XIX, the Panel prepared a full report and recommendation for the consideration of the General Executive Board, dated September 3, 2020. The Panel found

¹ This deadline was subsequently extended by the IRO, as permitted by Paragraph 32 of the Final Order, upon her finding of "good cause" relating to delays imposed by the Coronavirus crisis, until October 1, 2020.

that the preponderance of the reliable evidence supported certain aspects of each of the three charges. In particular, the Panel determined that the evidence supported aspects of Charge I in that Aloise contacted a representative of La Raza and made the threatening remarks to him as described in the IIO's report; it further determined that despite his suspension, Aloise violated the IRO's prior order by involving himself in union business on some occasions as alleged in Charge II of the IIO's Report²; and, it further determined that the evidence supported Charge III of the IIO's Report with respect to remarks Aloise made to one member.³

After considering a number of factors, the Panel recommended Mr. Aloise be suspended for 30 days from his positions as International Vice President, President of Joint Council 7, and Secretary Treasurer and Principal Office of Local 853. It further recommended he be barred for 30 days from holding any position, elected or appointed, paid or unpaid, with the IBT, JC 7, or Local 853, or any other IBT affiliate. It further recommended that for 30 days, No IBT entity pay him, nor shall he accept, any salary, gratuities, gifts, payments, allowances, fees, benefit payments or

² The Panel did not find that Aloise exercised "de facto" leadership control of Local 853 or Joint Council 7 during his suspension as alleged by the IIO.

³ For statements made to the remaining members, the Panel concluded that Mr. Aloise's speech was permissible "trash talk" under the Labor-Management Reporting and Disclosure Act.

contributions or any other compensation of any kind, except that he may receive compensation accrued prior to the implementation of the suspension. Aloise would be permitted to retain his membership during the period of his suspension, and to exercise all rights of membership other than holding office or employment with an IBT entity or advising or consulting concerning the business affairs of any IBT affiliate.

On October 1, 2020, pursuant to the IRO's scheduling order, the Panel's Report was presented to the General Executive Board. Rather than take a vote on the Panel's Report, the GEB instead voted by simple majority on a proposed Settlement Agreement under which Aloise would agree to a 30 day suspension on terms broadly similar to those recommended by the Panel. The GEB approved the Settlement Agreement by a vote of 12 to 11.

On October 8, 2020, the IRO informed the General President that neither the Panel Recommendation nor the proposed Settlement Agreement were adequate within the meaning of the Final Order. Among other deficiencies, the IRO determined that the penalties contemplated in both the Panel Report and the proposed Settlement Agreement "did not properly reflect the nature and seriousness of the charges the Hearing Panel sustained against" Aloise. The IRO directed the General President to, within 20 days, submit any additional actions the IBT might take to correct the deficiencies.

On October 14, 2020, Aloise, by counsel, moved the IIO for an opportunity to be heard with respect to the adequacy of the proposed Settlement Agreement, as permitted by ¶ 36 of the Final Order. The IRO granted the request, withdrew her October 8 letter and ordered both Aloise and the IIO to submit briefing on the adequacy of the proposed Settlement Agreement by October 23, 2020.

Following that briefing, on October 28, 2020, the IRO determined that the proposed Settlement Agreement did not "fairly or adequately meet the disciplinary goals set out in the Final Order." She re-incorporated her findings from the October 8 letter and found that:

"Specifically, the Settlement Agreement does not reflect the nature and seriousness of the charges the IIO filed against Mr. Aloise. Nor does it adequately reflect the nature and seriousness of the findings and charges the Hearing Panel sustained against Mr. Aloise. Lastly, it does not adequately take into account that in 2017, Mr. Aloise previously brought reproach upon the union by, among other things, improperly soliciting and accepting things of value from an IBT employer."

She ordered the IBT within 20 days, or by November 17, 2020, to submit any additional actions the IBT might take to correct the deficiencies in its response to the IIO's Charge Report.

On November 13, 2020, the IBT, by counsel, informed the IRO that it had "no pathway at this juncture for obtaining the IBT General Executive Board's approval of additional actions concerning [the Aloise] matter that would be deemed by you to be 'not inadequate'" and requested the IRO to take appropriate action under the Final Order.

On December 8, 2020, after discussions among the parties and with the IRO, the IRO ordered a *de novo* hearing for March 1, 2021 and set a pre-hearing schedule for both parties to exchange any additional evidence or testimony. The hearing is scheduled to take place at the offices of Bracewell LLP in New York, and parties and witnesses may participate in person or virtually, in compliance with then-existing health regulations and conditions.

B. Former Local 683 Principal Officer Todd Mendez

On March 6, 2019, the IIO issued a report to the IBT General President recommending that a charge be filed against Todd Mendez ("Mendez"), former principal officer of Local 683 (El Cajon, CA) for bringing reproach upon the IBT in violation of Article II, Section 2 (a) and Article XIX, Sections 7(b)(1) and (2) and Section (14)(a) of the IBT Constitution, through failing to reasonably

cooperate with the IIO by intentionally testifying falsely during his IIO sworn examination on February 2, 2017.

The IIO's Report alleged that Mendez testified falsely during his IIO sworn examination concerning a document he distributed and caused Board members to sign, purportedly subjecting them to financial penalty for disclosing the terms of a settlement agreement related to a lawsuit brought by a former employee against the Local and Mendez alleging sexual harassment and other causes of action.

On March 12, 2019, General President Hoffa adopted and filed the charges. On April 8, 2019, counsel submitted to the IRO a proposed affidavit and settlement disposing of the charges. Upon notice from the IIO that additional charges against Mendez were forthcoming, the IRO continued her review of the disposition until all charges could be considered together.

On August 28, 2020, the IIO issued a report to the IBT General President recommending that additional charges be filed against Mendez for 1) embezzling union funds, violating Federal law, and committing an act of racketeering in violation of 29 U.S.C. § 501(c), the IBT Constitution, Art. XIX, Sec. 7(b)(3) and (11) and Art. XXII, Sec. 4(e), and the permanent injunction in United States v. International Brotherhood of Teamsters; 2) bringing reproach upon the IBT by breaching his fiduciary duties, failing to meet with the incoming officers, failing to return Union property and

records, and destroying Union property and records in violation of 29 U.S.C. § 501(a), IBT Const. Art. XXII, Sec. 2(c), and IBT Const. Art. XIX, Sec. 9(b)(1) and (2); and 3) bringing reproach upon the IBT by violating his membership oath, knowingly harming a fellow Teamster, and retaliating and threatening to retaliate against a fellow Teamster for exercising rights under the IBT Constitution in violation of IBT Const. Art. II, Sec. 2(a), Art. XIX, Sec. 7(b)(2) and (11).

The IIO's report alleged that in December 2018, while still in office but after having lost his bid for reelection, Mendez caused the Local to make at least \$110,120 in unauthorized severance payments, vacation payouts and salaries to himself and six other former Local employees without a union purpose and without notice to or consent of the incoming officers. It further alleged that Mendez failed in his Constitutional duty to meet with or designate a willing and qualified representative to meet with the incoming officers during the period between the date of election and the end of the term to review pending grievances, open contract negotiations, and the Local's financial records. It further alleged Mendez vandalized and destroyed the Local's records and property. The IIO's report further alleged that Mendez engaged in a pervasive pattern of verbal and physical harassment of Local 683 officers, employees, members, and their families.

On September 1, 2020, General President Hoffa adopted and

filed the charges. Paragraph 32 of the Final Order required that within 90 days of the IIO's referral (or by November 30, 2020), the General Executive Board must file with the IRO written findings setting forth the specific action taken and the reason for such action.

On September 24, 2020, General President appointed a hearing panel to hear the charges against Mendez. On October 13, 2020, the IBT advised the IRO that the earliest day by which schedules could be coordinated to hold the hearing was December 15, 2020, and requested a 60 day extension of the deadline for action, or until January 29, 2021. The IRO granted the extension and the hearing was scheduled for December 15.

On Friday, December 11, 2020, in response to the IBT's reminder of the upcoming hearing, Mendez informed the IBT that due to an unspecified disability, he would not be able to attend the hearing on December 15. The IBT informed Mendez that, although it was within its rights to proceed in Mendez' absence, the Hearing Panel had decided to vacate the December 15 hearing and reschedule for a date after January 1, 2021, at a location and time, and under such conditions, as it deems appropriate.

IV. ONGOING INVESTIGATIONS

The IIO is currently conducting a number of investigations throughout the country. In the time period of this report, the IIO

has received and processed approximately 28 hotline calls reporting alleged improprieties.

The IDOs do not comment on ongoing investigations or identify areas or conduct under investigation until a formal recommendation of charges is served upon the IBT pursuant to the Final Order.

V. NEW TERMS OF THE IRO AND IIO

On December 9, 2020, pursuant to ¶ 28 of the Final Order, the IBT informed the United States Attorney for the Southern District of New York that it intended to reappoint the Hon. Barbara S. Jones (Ret.) to another five-year term of office as IRO, effective February 17, 2021

On the same day, December 9, 2020, the pursuant to ¶ 28 of the Final Order, the IBT informed the United States Attorney for the Southern District of New York that it intended to appoint Robert Luskin, Esq., currently of Paul Hastings, LLP, to serve as IIO for the five year term beginning February 17, 2021. Outgoing IIO Joseph E. diGenova is committed to an orderly transition that ensures that all matters currently under investigation or litigation can be pursued without interruption by his successor.

VI. TOLL-FREE HOTLINE

Activities which should be reported for investigation include, but are not limited to, association with organized crime, corruption, racketeering, embezzlement, extortion, assault, or failure to investigate any of these.

To ensure that all calls are treated confidentially, the system which records hotline calls is located in a secure area on a dedicated line accessed only by an Investigator. Please continue to use the toll-free hotline to report improprieties that fall within IIO jurisdiction by calling 1-800-CALL-472 (800-225-5472).

VII. CONCLUSION

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