

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

JAMES P. HOFFA
General President

25 Louisiana Avenue, NW
Washington, DC 20001



KEN HALL
General Secretary-Treasurer

202.624.6800
www.teamster.org

January 10, 2018

Mr. John T. Coli, Sr.
1226 W. George
Chicago, IL 60657

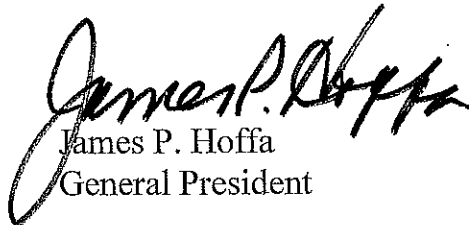
Re: Proposed Charge Against Former Joint Council 25 President
and Local 727 Secretary-Treasurer John T. Coli, Sr.

Dear Sir and Brother:

You will find enclosed the Report and Recommendations of the Panel that conducted the hearing on the charges filed against you. I have had the opportunity to review the Panel's findings and conclusions and hereby adopt them as my own.

The Panel's recommendation is reissued as the decision of the General President.

Fraternally yours,


James P. Hoffa
General President

JPH/brc

cc: General Executive Board
Joseph diGenova, Esq., Independent Investigations Officer
Hon. Barbara Jones., Independent Review Officer
Glen Kopp, Esq.
Bradley T. Raymond, Esq.
Roland Acevedo, Esq.
Tara M. La Morte, AUSA
Corey Rubenstein, Esq.
Hearing Panel

**REPORT AND RECOMMENDATIONS OF HEARING PANEL
APPOINTED TO HEAR CHARGES AGAINST FORMER JOINT
COUNCIL 25 PRESIDENT AND LOCAL 727 SECRETARY TREASURER
JOHN T. COLI, SR.**

Introduction

On August 10, 2017, the Independent Investigations Officer (“IIO”) issued a report to General President Hoffa, recommending that the following charge be filed against former Joint Council 25 President and Local 727 Secretary Treasurer John T. Coli, Sr.:

While a member of Local 727 and the IBT, you brought reproach upon the IBT in violation of Article II, Section 2 (a) and violated Article XIX, Sections 7 (b) (1), (2) and 14 (a) of the IBT Constitution by obstructing, interfering and unreasonably failing to cooperate with the Independent Investigations Officer as set forth in the Final Agreement and Order, to wit:

As described above, while a member of the IBT, on July 28, 2017 you willfully failed to appear for a sworn examination duly noticed pursuant to the Final Agreement and Order and Rules Governing the Authorities of Independent Disciplinary Officers and the Conduct of Hearings.

On August 17, 2017, General President Hoffa adopted and filed the recommended charge. Subsequently, General President Hoffa appointed a Hearing Panel (“Panel”) comprised of the following uninvolved members: Greg Nowak, President of Joint Council 43 and Local 1038; Tom Erikson, President of Local 120; and Charles Whobrey, President of Local 215. Brother Nowak was designated to serve as the Panel’s chair. The Panel was given the responsibility of hearing the evidence and making a full report to General President Hoffa.

By letter dated October 25, 2017, General President Hoffa notified Brother Coli that a hearing on the charge was scheduled for December 11, 2017 at a location to be determined. Subsequently, on November 13, 2017, Brother Coli and the other parties were informed that the hearing on the charge would take place on Monday, December 11, 2017, beginning at 10:00 a.m., at the Sheraton Chicago O’Hare (Airport), 6501 Mannheim Road, Rosemont, IL 60018.

The hearing proceeded on December 11, 2017, as scheduled. Brother Coli and his attorney, Corey Rubenstein, Esq., appeared. Attorney Rubenstein participated in the hearing; Brother Coli did not testify. The charges were presented by Roland R. Acevedo, Esq. Both attorneys were also given the opportunity to provide written submissions, and both elected not to do so, resting on their arguments presented during the hearing.

The following findings and recommendations of the Panel are based on the entire record, including exhibits appended to the IIO's report and the arguments of counsel made in support of and in opposition to the charge.

Brother Coli's background

Brother Coli has been a Teamster since 1971. From 1992 until July 12, 2017, he was the Secretary Treasurer and Principal Officer of Local 727. He was the President and Principal Officer of Joint Council 25 from 2002 until July 12, 2017. He also served as Director of the IBT's Parking Division, but has resigned from that position as well.

It is undisputed that Brother Coli's membership dues were paid through August 2017 and that he was a member of Local 727 and the IBT during all times pertinent to the charge.

Factual background

On July 12, 2017, a federal grand jury in Chicago indicted Brother Coli for allegedly violating 18 USC Section 1951 and 29 USC Section 186. The essence of the indictment is that Brother Coli allegedly extorted payments totaling at least \$100,000 from an employer that had a collective bargaining agreement with Local 727.

On July 13, 2017, the IIO sent a notice of sworn examination to Brother Coli, which he received on July 15, 2017. The notice did not specify the subjects on which Brother Coli would be questioned. Communications between Brother Coli's attorney and IIO staff ensued. On July 18, 2017, a request by Brother Coli's attorney for postponement of the sworn examination was granted. At this time, Brother Coli's attorney was informed that the examination would include questions concerning the indictment allegations and "other union-related issues." Coli's attorney advised the IIO that his client might assert his Fifth Amendment privilege against self-incrimination and was informed about case law holding that assertion

of the Fifth Amendment privilege in connection with an IIO sworn examination could be found to be an unreasonable failure to cooperate under the IBT Constitution and the Final Order.

On July 24, 2017, Brother Coli advised the IIO that his client was asserting his Fifth Amendment privilege, was also relying on "the protections afforded by Article XIX, Section 7 (a) of the [IBT] Constitution" and would not be appearing for a sworn examination. The IIO responded on July 25, 2017 that if Brother Coli did not appear for the sworn examination on July 28, 2017, the adjourned date previously granted by the IIO, that the IIO would then recommend a charge against Coli for failing to cooperate. Brother Coli did not appear on July 28, 2017.

The Hearing

As indicated above, at the hearing on December 11, 2017, Brother Coli appeared but did not testify. On his behalf, his counsel urged the Panel to apply Article XIX, Section 7 (a) of the IBT Constitution to the circumstances of Coli's refusal to appear for the scheduled IIO sworn examination. That provision states, in pertinent part, as follows:

"No member or officer shall be required to stand trial on charges involving the same set of facts as to which he is facing criminal or civil trial until his final court appeal has been concluded."

Coli's attorney argues, in substance, that this provision was designed to protect a member facing criminal or civil trial from having to waive his Fifth Amendment privilege against self-incrimination by participating in an internal union disciplinary trial or, under the same logic, in a sworn examination that could lead to an internal disciplinary trial. He contends that refusing to participate in a sworn examination conducted by the IIO in these circumstances was not an "unreasonable failure to cooperate."

Analysis

The facts here are not in dispute. Brother Coli, while a member and an officer of Local 727 and Joint Council 25, and an employee of the IBT, was indicted by a federal grand jury on July 12, 2017. Although he promptly resigned all of his Union offices and positions on or shortly after July 12, there is no evidence that he resigned his Union membership. As indicated above, it is undisputed that his membership dues were paid at least through August of 2017.

Accordingly, while still a Union member, he was advised that the IIO had scheduled his sworn examination. It is undisputed that he failed and refused to appear and testify.

Article XIX, Section 14 (a) of the IBT Constitution (2016 edition) expressly provides as follows:

“All officers, members, employees and representatives of the International Union and its affiliated bodies shall cooperate fully with the Disciplinary Officers in the course of any investigation or proceeding undertaken by it. Unreasonable failure to cooperate shall be deemed to be conduct which brings reproach upon the Union, and which is thereby within the investigatory and decisional authority of the Disciplinary Officers.”

Although the Panel is sympathetic to the difficult situation in which Brother Coli found himself after June 12, 2017, we cannot conclude that Article XIX, Section 7 (a) provides him with an excuse for failing to cooperate with the IIO's investigation. The plain terms of this provision establish an exemption from standing “trial” on internal union charges involving the same facts as are involved in a pending criminal case. The language does not say or suggest that this also exempts Brother Coli from cooperating with an IIO investigation, which cannot be reasonably characterized as a “trial.” IRB, in a previous case, declined to apply this provision in circumstances in which a charged member sought a stay in a disciplinary matter in which a hearing had already been conducted, but no post hearing brief had been filed, due to the fact that the charged member had been indicted by a federal grand jury. See United States v. International Brotherhood of Teamsters, 247 F.3d 370, 377 (2nd Cir. 2001). And, we understand that the IBT has itself, in the Aloise matter, construed Article XIX, Section 7 (a) (with strong disagreement from the IDOs) to exempt a member from being tried on issues in which the member has been informed that he is a “target” of an ongoing criminal investigation. Here, however, Brother Coli refused to participate in an IIO investigation, which is not mentioned in Article XIX, Section 7 (a), and the current charge against him is based solely on his refusal to cooperate with this investigation, not the facts alleged in the indictment. We are unable and unwilling to interpret the language of Article XIX, Section 7 (a) to apply to anything more than what is expressly contemplated by the language, which is an internal disciplinary “trial.”

Accordingly, in these circumstances, we are compelled to conclude that Brother Coli's failure and refusal to cooperate with the IRO's investigation by submitting to a sworn examination in July of 2017, while he was still a Union member, violated Article XIX, Section 14 (a), and we are therefore compelled to recommend that the charge be sustained.

Penalty

Article XIX, Section 10 (a) of the IBT Constitution enumerates the array of potential penalties that may be imposed by the Union upon a finding that a member has committed a charged disciplinary offense. This provision states, in pertinent part, as follows:

"Decisions and penalties imposed upon individual members, officers, elected Business Agents, Local Unions, Joint Councils, or other bodies found guilty of charges may consist of reprimands, fines, suspensions, expulsions, revocations, denial to hold any office permanently or for a fixed period, or commands to do or perform, or refrain from doing or performing, specified acts."

In determining what disciplinary penalty to recommend against Brother Coli here, we are guided by the criteria enumerated by Independent Review Officer Jones in her December 22, 2017 decision in the Aloise matter. In that decision, Judge Jones indicated that in determining an appropriate penalty, consideration should be given to 1) the charged individual's background and contributions to the Union, 2) the nature and seriousness of the offense, 3) the need for punishment to deter future wrongdoers, 4) the kinds of penalties available and 5) the consistency of punishment with previous punishments for similar conduct.

Mindful that Brother Coli has had a long and otherwise unblemished career with the Union, we nonetheless conclude that failing to cooperate with an investigation by the IIO is among the most serious of offenses under the IBT Constitution, one which strikes at the heart of the Final Order and the Union's commitment preventing corruption at all levels. Even more important is the fact that the penalties imposed for similar conduct in the past have invariably included permanent removal from Union office and employment and permanent expulsion from membership, arguably the most severe penalties available under the IBT Constitution. Anything less than this here could have the effect of encouraging

other members to disregard their obligation under the IBT Constitution to cooperate with the IIO.

Thus, in case after case under the Consent Decree, members who failed to cooperate with the IRB by refusing to submit to a sworn examination have been permanently barred from holding office or employment with the Union and permanently expelled from membership in the Union. In addition to cases cited in the IIO's report recommending the charge against Brother Coli, see Joseph DeMateo (March 18, 2013); Christopher Scully (March 13, 2014); Charles Centaro (August 14, 2014); Angela Paolina (November 13, 1996); Pasquale Guarneco (June 11, 2008); Sergio Salcedo (January 18, 2016); Donny Robles (October 18, 2006); Albert DeStefano (July 11, 2000); Mark Jones (February 12, 2008); Stacey Spalding (July 23, 2008); Cassandra Mosley (February 12, 2008); Anthony Fandacone (July 12, 2005); Marco Minichino (October 12, 2004). These cases include decisions by the IBT and by IBT affiliates. We are aware of no exceptions, except perhaps in some cases in which charged members have promptly cooperated after initially refusing to do so, mitigating circumstances which do not exist here.

In these circumstances, we recommend that the penalty for Brother Coli's failure to cooperate with the IIO should be permanent expulsion from membership. In addition, we recommend that Brother Coli be permanently barred from holding any office or employment (including as a consultant) with the IBT or any affiliate of the IBT, permanently barred from any involvement in the affairs of the IBT or any affiliate of the IBT, and permanently prohibited from receiving any compensation, payments or benefits from the IBT or any affiliate of the IBT, except for any benefits that accrued or vested prior to his resignation from his Union positions in July of 2017.

January ____, 2018

Greg Nowak

Charles Whobrey

Tom Erikson

January 10, 2018



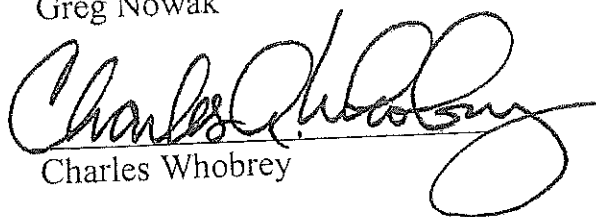
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Tom Erikson