

71, 77
114, 182, 200
313, 456

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	88 Civ. 4486 (DNE)
Plaintiff,	:	
v.	:	
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, et al.	:	APPLICATION XVI OF THE INDEPENDENT REVIEW BOARD -- AGREEMENT BETWEEN THE INDEPENDENT REVIEW BOARD AND ROBERT SIMPSON, JR., KENNETH HESTER, ELIJAH BUFFINGTON, CLARA DAY, SAM MATYAS, CHESTER GLANTON AND JERRY BROADDUS
Defendant.	:	

Pursuant to Paragraph O. of the Rules and Procedures for Operation of the Independent Review Board ("IRB") for the International Brotherhood of Teamsters ("IRB Rules"), the IRB files this Application submitting the Compromise Agreement with the Officers of Local 743 in Chicago, Illinois. This Agreement was approved by the IRB and is submitted to Your Honor for review and, if appropriate, to be entered as an order. The Agreement seeks to resolve the matter of The Independent Review Board v. Robert Simpson, Jr., Kenneth Hester, Elijah Buffington, Clara Day, Sam Matyas, Chester Glanton and Jerry Broaddus. The Agreement, with a copy of the charges annexed thereto as Exhibit A, is enclosed herewith.

This Application recognizes the importance of Your Honor's February 2, 1994, Order in which Your Honor stated that all IRB Compromise Agreements shall "contain a paragraph informing signatories that the agreement will be reviewed and may be

rejected." The Agreements reached between the IRB and the Local 743 Officers satisfy this procedure for Your Honor's review.

The Respondents are all officers of IBT Local 743 and members of the IBT. Simpson, Local 743's President; Hester, Secretary-Treasurer; Buffington, Vice President; Day, Recording Secretary; and Trustees Glanton, Matyas and Broaddus were charged with breaching their fiduciary duties and bringing reproach upon the IBT and violating the Local 743 Bylaws by giving away Local Union cars despite the provision of the Local 743 Bylaws which mandates that the title to union-owned cars shall always remain in the name of the Local. This was in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(1) and (2) of the IBT Constitution and Section 16(c) of the Local 743 Bylaws.

These Respondents have been charged with giving away three cars since 1989 with a total book value of \$46,347. The IRB found that the Respondents were accountable for the two cars valued at \$29,463 which were given away after April 1990. That date is significant because it was then that my decision, in my capacity as Independent Administrator, in the matter of Investigations Officer v. Vitale was published in The International Teamster magazine. In Vitale, I reviewed a similar provision of another Union's bylaws regulating union-owned automobiles. In that decision, dated December 18, 1990, I found that such a provision clearly prohibits the transfer of Union-owned cars. On June 6, 1991, Your Honor affirmed my ruling, and your ruling was in turn affirmed by the United States Court of Appeals for the Second Circuit. See United

States v. IBT, 775 F.Supp. 90 (S.D.N.Y. 1991), aff'd, United States v. IBT, 88 Civ. 4486 (DNE), slip op. (2d Cir. October 31, 1991).

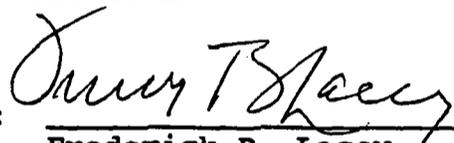
With the publication of the Vitale decision, all Local Unions were put on notice they could not transfer automobiles to Local Union officers if their bylaws required title of those automobiles to remain with the Local. See Exhibit A at p.6.

Respondents have reimbursed a total of \$29,463 to the Local 743 general fund jointly and severally for the value of the cars out of their own private funds. Attached to the Agreement as Exhibit A is a copy of the original deposit slip and deposit receipt dated November 10, 1994, from Amalgamated Bank of Chicago, a copy of the original Titan receipts from each individual officer, and a letter dated November 10, 1994, from Steve Banoul, Comptroller for Local 743, certifying receipt of \$4209.00 from each individual officer.

We have found the Agreement comports with Your Honor's February 2, 1994, Order and serves to resolve the charges in a fair and equitable manner.

Therefore, we respectfully request that Your Honor execute the Agreement on the line provided. This will, in effect, serve to have this Agreement "so ordered" by the Court. Thereafter, it is respectfully requested that a member of Your Honor's staff file the fully executed original Agreement with the Clerk.

By:


Frederick B. Lacey
Member of the
Independent Review Board

Dated: March 14, 1995

-----X
 In the Matter of :
 :
 ROBERT SIMPSON, JR., :
 President, :
 KENNETH HESTER, :
 Secretary-Treasurer, : AFFIDAVIT AND AGREEMENT
 ELIJAH BUFFINGTON, :
 Vice President, :
 CLARA DAY, :
 Recording Secretary, :
 SAM MATYAS, :
 Trustee, :
 CHESTER GLANTON, :
 Trustee, :
 JERRY BROADDUS, :
 Trustee, :
 :
 :
 -----X

ROBERT SIMPSON, JR., KENNETH HESTER, ELIJAH BUFFINGTON,
 CLARA DAY, SAM MATYAS, CHESTER GLANTON AND JERRY BROADDUS, depose
 and say and agree as follows:

1. The Independent Review Board, appointed pursuant to
 the Consent Order entered March 14, 1989 in United States v.
International Brotherhood of Teamsters, 88 Civ. 4486 (DNE) (SDNY)
 (the "Consent Order") referred to Joint Council 25 a June 30, 1994
 report of proposed charges against Local 743 officers Robert
 Simpson, Jr., Kenneth Hester, Elijah Buffington, Clara Day, Chester
 Glanton, Sam Matyas and Jerry Broaddus.

2. This Agreement is made to resolve the proposed
 charges in the June 30, 1994 report sent to Joint Council 25 for
 its attention regarding the gift of cars. This Agreement does not
 constitute an admission of any impropriety, or violation of the
 Local Union Bylaws, International Constitution or Consent Order or
 the truth of any allegations in the report or proposed charges.

3. We understand and agree that this Agreement will be
 submitted to the Independent Review Board ("IRB") for its review
 and, if approved by the IRB, it will be submitted to the United
 States District Court for the Southern District of New York for
 review. We understand that if this Agreement is approved by the
 United States District Court for the Southern District of New York
 it will be entered as a court order. We understand that no
 representations have been made as to whether this Agreement will be
 approved by the IRB or the United States District Court for the

Southern District of New York. We further understand that this Agreement is subject to review by the United States District Court for the Southern District of New York and if, upon review, this Agreement is not approved by the United States District Court for the Southern District of New York, this Agreement will be void.

4. Each Respondent is a member of IBT Union Local 743 and was a member of the Local Union Executive Board and held the Local Union office set forth opposite their respective names:

Robert Simpson, Jr.	President
Kenneth Hester	Secretary-Treasurer
Elijah Buffington	Vice President
Clara Day	Recording Secretary
Sam Matyas	Trustee
Chester Glanton	Trustee
Jerry Broaddus	Trustee

5. Section 16(C) entitled "Automobile Allowances" of the Bylaws of Local Union 743 provides as follows:

The Local Union may provide its officers or representatives with automobiles upon authorization of the membership or in lieu thereof, they may be paid an allowance for use of their automobiles in such amount or at such rate as shall be approved by the Local Union Executive Board. In such instances where the Local Union provides an automobile, title to the automobile shall remain at all times in the name of the Local Union. It is recognized that such officers or employees are required to be on instant call at all times, may be required to garage such automobiles and are responsible for their safeguarding. Accordingly, for the convenience of the Union and as partial compensation for such additional responsibilities, such officers shall be permitted private use of such automobiles on a round-the-clock, continuous basis, including private use when the automobiles are not required on Union business. Upon authorization of the Local Union Executive Board, the President is empowered to sell, exchange or lease automobiles or arrange financing therefor in behalf of Local Union.

Although Section 14(A)(2) and (9) provide for Executive Board authority in determining, inter alia, allowances and disbursement for officers and agents as well as the disposition of Local Union property, the International Brotherhood of Teamsters interprets the provisions of Section 16(C) underlined above (" . . . title to the automobile . . . name of the Local Union") to prohibit the giving away or gifting of automobiles to retiring officials or employees of the Local Union.

6. It is acknowledged and admitted that we approved and/or ratified the gifting of a used automobile to the retiring official or employee set out below on or about the date specified and that the value of the particular automobile was as indicated:

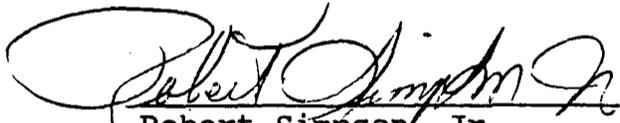
Donald Peters	May 1, 1989	\$16,884
James Hoskins	May 6, 1991	\$12,279
Ray Hamilton	December 2, 1991	\$17,184

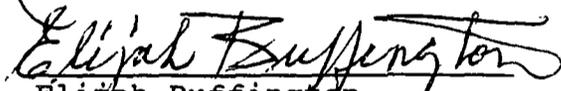
7. The actions described in paragraph 6 were appropriately reported to relevant government agencies (IRS and DOL), in routine and special IBT audits and were presented to and approved by the membership in attendance at regular Union meetings although such approvals cannot override a Bylaw provisions prohibiting such a transaction.

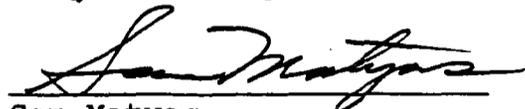
8. We have repaid to the Local 743 general fund twenty-nine thousand, four hundred and sixty-three dollars (\$29,463) (four thousand two hundred and nine dollars (\$4,209) each), in order to resolve the proposed charges in the IRB's June 30, 1994 report out of personal funds with no compensation, salary increase or repayment in any manner for such expenditure. Attached as Exhibit A are documents reflecting this payment to the Local 743 general fund.

9. We have entered this Agreement on the understanding that Joint Council 25 and the IRB agree not to pursue the proposed charges described in the June 30, 1994 report. We understand that this Agreement, which is subject to review by the United States District Court for the Southern District of New York, is limited to the charges detailed in the June 30, 1994 report and the IRB expressly reserves the right to pursue charges against any other officer, member, employee or entity of the IBT and Local 743 arising out of the allegations contained in the June 30, 1994 report of proposed charges or any other investigations.

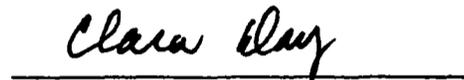
10. We make this agreement after consultation with our attorney and fully understand its terms.

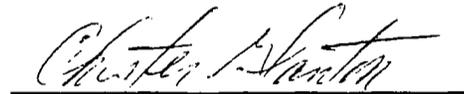

Robert Simpson, Jr.

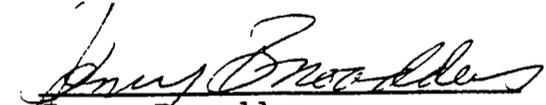

Elijah Buffington


Sam Matyas

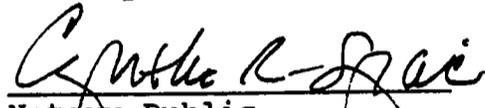

Kenneth Hester

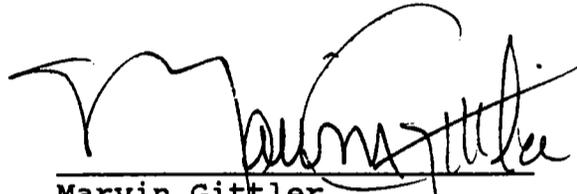

Clara Day


Chester Glanton


Jerry Broaddus

Sworn to before me this
27th day of February 1995


Notary Public


Marvin Gittler
Counsel for Respondents

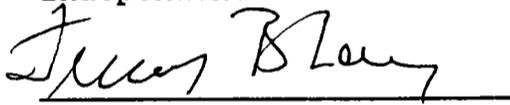
Approved and Recommended:

Teamster Joint Council 25

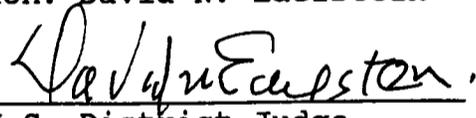
By: 

Approved:

Independent Review Board

By: 

So Ordered:
Hon. David N. Edelstein


U.S. District Judge

Dated: JULY 17, 1995