

-----X
INVESTIGATIONS OFFICER, :
 :
 Claimant, : AFFIDAVIT AND AGREEMENT
 :
 -v- :
 :
 NELLIE MCKIM, :
 :
 Respondent. :
-----X

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

NELLIE MCKIM, being duly sworn, deposes and says, and agrees as follows:

1. The Investigations Officer, Charles M. Carberry, 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") that the Investigations Officer has filed charges against me pursuant to the Consent Order (the "charges"). A copy of the charges is annexed as Exhibit A and incorporated herein by reference.

2. I make this affidavit and agreement (the "agreement") to resolve the charges. This agreement does not constitute an admission or denial of the charges.

3. I represent and agree to the following:

(a) I am a member of the International Brotherhood of Teamsters ("IBT") and a member of IBT Local Union 580;

(b) I am a member of the Executive Board of Local 580, and hold the office of Secretary-Treasurer of Local 580;

(c) I currently hold no other elected or appointed offices of any kind, paid or unpaid, in the IBT or any of its affiliated entities including Local 580, or with any benefit plans or other such entities (collectively "IBT Entities");

(d) I currently receive no salary, allowances or remuneration of any kind from any IBT Entities other than Local 580;

(e) I shall resign on or before December 31, 1990 from my office as an officer of Local 580;

(f) I shall withdraw as a member of the International Brotherhood of Teamsters, and all other IBT Entities, including Local 580, on or before December 31, 1990;

(g) From the date of my resignation forward, I will not hold, seek or accept election or appointment to any

membership or office, paid or unpaid, in any IBT Entity nor will I seek or accept any employment, consulting, or other similar relationship of any kind with any IBT Entity;

(h) No later than December 31, 1990, I shall make restitution to Local 580 in the amount of \$31,365.

(i) This agreement is permanent.

4. I further represent and agree to the following:

(a) I am currently a defendant in a criminal action entitled United States of America v. Nellie McKim, No. 1-90-CR-27 pending in the United States District Court for the Western District of Michigan, Southern Division. A true copy of the indictment in that case is annexed as Exhibit B and incorporated herein by reference (the "indictment");

(b) In the event I plead guilty to charges arising out of the indictment on or before December 31, 1990, I shall agree as part of any plea agreement with the government to make restitution to Local 580 in an amount not less than \$31,365;

(c) In the event I enter into such a plea agreement with the government as set forth in Paragraph 4(b), the restitution made pursuant to that plea agreement shall nullify my obligation to make restitution to Local 580 pursuant to Paragraph 3(h) of this agreement;

(d) In the event I do not enter into such a plea agreement with the government, my obligation to make restitution to Local 580 pursuant to Paragraph 3(h) shall remain in full force and effect.

5. I have entered into this agreement on the understanding the Investigations Officer agrees he will not pursue the charges.

6. I understand the Investigations Officer's agreement is limited to the annexed charges and he expressly reserves the right to pursue charges against any other officer or entity of the IBT or Local 580, arising out of the allegations contained in the charges or any other investigations.

7. I agree this agreement will be submitted to the Independent Administrator for his review and approval. If approved by the Independent Administrator, I understand he will submit it to the district court for that court to enter as an order.

8. I understand the Investigations Officer makes no representation as to the determination of the Independent Administrator or the court with respect to this agreement.

9. I make this agreement freely, under no duress or coercion of any kind, and after consultation with my attorney.

10. I have authorized my attorney to transmit this agreement, signed by me, to the Investigations Officer. When it is signed by the Investigations Officer he will submit it to the Independent Administrator for approval.




NELLIE MCKIM

Sworn to before me
this 25th day of September 1990

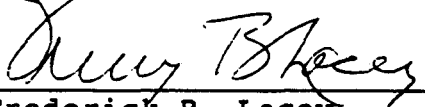
Notary Public
JOANN HOPKINS
Notary Public, Livingston County, MI
My Commission Expires May 17, 1993

Agreed:



Charles M. Carberry
Investigations Officer

Approved:



Frederick B. Lacey
Independent Administrator

SO ORDERED:

David N. Edelstein
United States District Judge

EXPRESS MAIL

INVESTIGATIONS OFFICER, :
 Claimant, :
 - v - :
NELLIE J. MCKIM, :
 Respondent. :

You are hereby advised that the Investigations Officer has charged you with the violations listed below in accordance with the powers granted to him pursuant to Section F. (COURT APPOINTED OFFICERS), Paragraph 12(A) of the order entered in United States v. International Brotherhood of Teamsters, et al., 88 CIV. 4486 (DNE) (SDNY) on March 14, 1989. A copy of that order is enclosed.

The time and place for the hearing of this matter will be determined by the Independent Administrator, Frederick B. Lacey, and he will notify you accordingly.

You are charged as follows:

Charge 1

1. Violating Article II, § 2(a) and Article XIX, § 6(b)(2) of the International Brotherhood of Teamsters ("IBT")

Constitution, by conducting yourself in a manner to bring reproach upon the IBT; and

2. Violating Article XIX, § 6(b)(3) of the IBT Constitution by embezzling and converting to your own use and the use of others funds of Local 580;

TO WIT:

Beginning in approximately 1983, you embezzled and converted to your own use in excess of \$30,000 of union money through the conduct of a kickback scheme. At your direction, employees of Local 580 under your supervision submitted false and fraudulent claims for overtime compensation. Although you knew these claims were false and that no such overtime had been worked by these employees, you deliberately caused these requests for overtime pay to be approved by the local executive board and paid to the employees. Upon receipt of these fraudulently approved checks for overtime pay, the employees cashed the checks and returned some or all of the proceeds to you in cash. During the course of this fraudulent scheme, you converted to your own use approximately \$500 per month in union monies, totalling approximately \$30,000.

Charge 2

1. Violating Article II, § 2(a) and Article XIX, § 6(b)(2) of the IBT Constitution, by conducting yourself in a manner to bring reproach upon the IBT; and

2. Violating Article XIX, § 6(b)(3) of the IBT Constitution by embezzling and converting to your own use and the use of another funds of Local 580;

TO WIT:

On or about July 24, 1984 you signed a pretrial diversion agreement with the United States Attorney's Office for the Western District of Michigan. The purpose of this agreement was to avoid prosecution of charges filed against you by the government in United States v. McKim, Cr. Complaint No. 82-125 (W.D. Mich.), for embezzlement of funds from Local 580 in violation of 29 U.S.C. § 501(c). In the agreement, you admitted that you had embezzled approximately \$5,568.60 from Local 580 by improperly accepting personal collect phone calls at the local's office which were paid for by the local, charging personal expenses to the local's charge accounts, authorizing payment of union funds for flight insurance for your husband, after he had left union office. In addition, you improperly claimed for yourself an organizing fee to which you were not entitled. In acknowledgement of your wrongful conduct you agreed to pay back to the union the money you had embezzled.

You concealed from the other members of the Local 580 Executive Board, and the membership of the local this embezzlement and your agreement with the government, and the admission therein that you had converted approximately \$5,568.60 in union funds for your unjustified personal use.

Charge 3

1. Violating Article II, § 2(a) and Article XIX, § 6(b)(2) of the IBT Constitution, by conducting yourself in a manner to bring reproach upon the IBT;

2. Violating Article XIX, § 6(b)(3) of the IBT Constitution by embezzling and converting to your own use and the use of another funds and property of Local 580;

TO WIT:

You embezzled money from Teamsters Local 580. On or about October 14, 1977 you were indicted, along with your husband Lloyd McKim, in the United States District Court for the Western District of Michigan. In the Indictment, you were charged with embezzling and assisting the embezzlement of money of the local and with making false entries in the local union's records.

On or about February 27, 1978, pursuant to a plea agreement with the government, your husband Lloyd C. McKim pleaded guilty to violating 29 U.S.C. § 439 for causing false records to be maintained by Local 580 during 1973 and 1974 when he was chief executive officer. During this period, you were the bookkeeper who knowingly made the false entries. As part of your husband's plea agreement, he agreed to pay a \$500 fine and to make restitution to the local of approximately \$2,872.00 in embezzled money. In an affidavit filed in court, your

husband admitted your involvement. In return, the charges against you were dismissed. Because of his conviction, Lloyd C. McKim was barred from union office, pursuant to 29 U.S.C. § 504.

You succeeded your husband as chief executive officer of Local 580, in or about April 1975. On or about March 6, 1978 you improperly allowed to be passed by the Local 580 Executive Board a resolution authorizing the payment of \$9,527.00 in local union funds to the attorney who had represented you and your husband on the charges in the Indictment without revealing that you and your husband were in fact guilty. This allegedly constituted one half of the fee paid to the attorney for the joint defense of you and your husband.

This payment of \$9,527.00 was not for the benefit of the membership of Local 580 and served no legitimate interest of the local but instead was solely for your personal benefit and the benefit of your husband. The payment was a conversion of local funds to defray the cost of your joint defense of the criminal charges against you and your husband, despite your guilt. As you well knew, the charges against you were dismissed not because you were innocent but only as a quid pro quo for your husband's agreement to plead guilty.

Charge 4

Violation of Article XIX, § 6(b)(5) of the IBT Constitution by engaging in conduct that interfered with and was disruptive of Local 580's legal obligations; and

Filing false and misleading Labor Organization Annual Reports (Form LM-2) in violation of law;

TO WIT:

You have filed and caused to be filed false and misleading Form LM-2s with the United States Department of Labor. These false Form LM-2s were designed to defraud the Department of Labor and the members of Local 580.

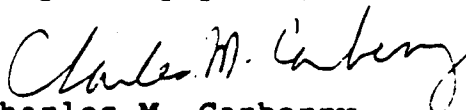
Although you were required by the terms of the pretrial diversion agreement with the government that you made in 1984 to make restitution to Local 580 of the approximately \$5,568.00 you admitted you embezzled from the local, you deliberately failed to disclose on the Form LM-2 filed by Local 580 for the year 1984 that there had been a shortage of local union funds caused by your embezzlement and that you had been required by your agreement with the government to make restitution of that shortage.

The fraudulent overtime payments you caused to be made by employees of Local 580 were deliberately and falsely reported on the Forms LM-2 filed for the years 1983 through 1988 as compensation to employees. In fact, these overtime payments were, in great part, turned over to you and were not

compensation to employees. Although you knew of this fraudulent scheme, which was conducted on your express directions, you deliberately caused the Forms LM-2 of Local 580 to be false and to be filed with the United States Department of Labor. These false LM-2s were designed to defraud the Department of Labor and the members of Local 580.

Dated: New York, New York
April 18, 1990

Very truly yours,


Charles M. Carberry
Investigations Officer

cc: Frederick B. Lacey, Esq.
James T. Grady, Esq.
Edward T. Ferguson, III, Esq.
David F. DuMouchel, P.C.

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