

INDEPENDENT REVIEW BOARD  
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Chief Investigator:

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Administrator:  
John J. Cronin, Jr.

July 22, 2010

**VIA UPS NEXT DAY**

Hon. Loretta A. Preska  
United States District Court  
United States Courthouse  
500 Pearl Street, Room 1320  
New York, NY 10007

Re: APPLICATION 145 OF THE INDEPENDENT REVIEW BOARD

Dear Judge Preska:

I transmit herewith one original and one copy of Application 145 of the Independent Review Board, submitting the Opinion and Decision regarding Vincent Federico, approved by the IRB, to Your Honor for review, and if appropriate, to be "so ordered."

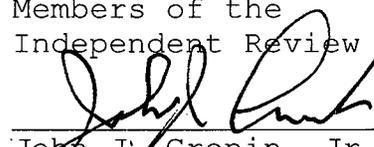
In addition to the Application, enclosed please find the original and one copy of:

- (a) the July 22, 2010, Opinion and Decision of the IRB;
- (b) an Acknowledgment of Receipt; and
- (c) an Affidavit of Service.

If you find it appropriate, I respectfully request that a member of Your Honor's staff file the original of the "backed" Application, Opinion and Decision, Acknowledgment of Receipt and Affidavit of Service with the Clerk's office.

Respectfully submitted,

Members of the  
Independent Review Board

By: 

John J. Cronin, Jr.  
Administrator

JJC:cft  
Enclosures

Pursuant to the Consent Order of the United States District Court, S.D.N.Y.  
United States -v- International Brotherhood of Teamsters 88 CIV. 4486 (LAP)

Board Members:

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cc: Beth Goldman, AUSA  
Charles M. Carberry, Esq., w/o Appendix to Exh. A  
Bradley T. Raymond, Esq., w/o Appendix to Exh. A  
Vincent Federico

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	88 CIV. 4486 (LAP)
	:	
v.	:	APPLICATION 145 OF THE
	:	INDEPENDENT REVIEW BOARD
	:	-- OPINION AND DECISION OF
INTERNATIONAL BROTHERHOOD OF	:	THE INDEPENDENT REVIEW
TEAMSTERS, <u>et al.</u>	:	BOARD IN THE MATTER OF
	:	VINCENT FEDERICO
Defendants.	:	
	:	

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Pursuant to Paragraph O. of the Rules and Procedures for Operation of the Independent Review Board for the International Brotherhood of Teamsters ("IRB Rules"), Application is made by the Independent Review Board ("IRB") for ruling by the Honorable Loretta A. Preska, United States District Judge for the Southern District of New York, on the issues heard by the IRB during a hearing on May 12, 2010, and thereafter determined, on the charge filed against Vincent Federico ("Federico"), a member of Local 82.

The preponderance of the evidence established that Federico brought reproach upon the IBT by continuing to be a member of the Patriarca Crime Family and thus violated the IBT Constitution.

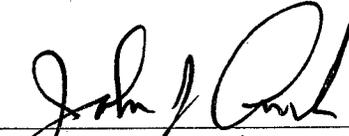
As a penalty, Federico has been permanently barred from holding membership in or any position with the IBT or any IBT-affiliated entity. In addition, Federico is permanently barred from seeking

or accepting from the IBT or any IBT-affiliated entity any salary, severance payment, allowance, fee, payment for unused vacation, or compensation of any kind except fully vested pensions, compensation and fully vested welfare benefits; and permanently barred from the date of expulsion from having any contributions made on his behalf by any IBT entity to any pension, health and welfare, severance, or other benefit fund.

Enclosed with our July 22, 2010 Opinion and Decision are the February 22, 2010 IRB Investigative Report (Exhibit A) and the Appendix to Exhibit A (Exhibits 1 to 14), the May 12, 2010 IRB Hearing Transcript (Exhibit B), and IRB exhibits IRB-1 to IRB-10 introduced at the hearing (Exhibit C).

It is respectfully requested that an Order be entered affirming the IRB's July 22, 2010, Opinion and Decision if Your Honor finds it appropriate.

By:

  
\_\_\_\_\_  
John J. Cronin, Jr.  
Administrator

Dated: July 22, 2010

-----X  
IN RE: : OPINION AND DECISION  
 : OF THE INDEPENDENT  
 Vincent Federico : REVIEW BOARD  
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**INTRODUCTION**

On May 12, 2010, the Independent Review Board ("IRB") held a hearing on the charge the International Brotherhood of Teamsters ("IBT") filed on March 1, 2010, against Vincent Federico ("Federico") alleging that he violated the IBT constitution by bringing reproach upon the IBT by being a member of an organized crime family.<sup>1</sup> The IBT filed the

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<sup>1</sup> Federico was charged with violating Article II, Section 2(a) and Article XIX, Section 7(b)(2) and (9) of the IBT Constitution. Article II, Section 2(a) provides in pertinent part:

Each person upon becoming a member thereby pledges his honor . . . to conduct himself or herself at all times in such a manner as not to bring reproach upon the Union. . .

Article XIX, Section 7(b)(2) and (9) provide the following as grounds for charges against IBT members and officers:

(2) Violation of oath of office or of the oath of loyalty to the Local Union and the International Union.

(9) Knowingly associating (as that term has been defined in prior decisions on disciplinary charges under this Article) with any member or associate of any organized crime family or any other criminal group.

charge based on the IRB report and exhibits forwarded to it and which were also provided to Federico. The IRB finds by a preponderance of the evidence presented at the hearing that Federico violated the IBT Constitution.

### **FACTS**

On December 22, 1978, in Massachusetts, a jury found Federico guilty of murder in the second degree. (Ex. 6).<sup>2</sup> He was sentenced to life in prison with eligibility for parole after 15 years. (Ex. 1 at 6-7) On October 28, 1989, while on a 28 hour furlough from prison, Federico was inducted into membership in the Patriarca Organized Crime family after an initiation ceremony held at his brother-in-law's, Stephen DiStefano, home in Medford, Massachusetts (Ex. 7 at 5-6; Ex. 1 at 18-19). The day before the induction ceremony, Federico's brother-in-law DiStefano met with Patriarca crime family consigliere Joseph A. Russo ("Russo") and capo Vincent Ferrara at DiStefano's home. United States v. Salemme, et al 91 F. Supp. 2d 141, 281, 284-285 (1999). At the induction ceremony, which the Federal Bureau of Investigation ("FBI") secretly taped, Federico swore an oath of loyalty to the crime family. He

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<sup>2</sup> Unless noted otherwise, exhibits are those attached to the IRB charging report. "Tr." refers to the transcript of the hearing before the IRB on May 12, 2010 in Boston, Massachusetts.

also solemnly swore to keep its secrets. He spilt his blood on the picture of a saint which was burned in his hands while he acknowledged that the only way he could leave the family was through death. He was assigned to a capo. United States v. Bianco, et al., 998 F.2d 1112, 1119 (2d Cir. 1992) (Ex. 7 at 6) He then returned to prison.

On December 7, 1990, an indictment was filed in the United States District Court for the District of Connecticut, charging eleven alleged members and associates of the Patriarca LCN family with racketeering conspiracy in violation of 18 U.S.C. § 1962(d). (Ex. 9) In 1991, following a trial, seven of the alleged members and associates of the Patriarca LCN family were convicted of RICO related charges. (Ex. 7 at 2; Ex. 9) The tape recording of Federico's initiation ceremony was played before a jury during the 1991 trial of seven alleged members and associates of the Patriarca LCN family, including alleged capo regime Matthew Guglielmetti, Jr. ("Guglielmetti, Jr."), who attended Federico's LCN induction ceremony. (Ex. 7 at 1, 6; Ex. 1 at 23-24) In a July 19, 1993 decision, the United States Court of Appeals for the Second Circuit recognized the existence of the Patriarca LCN organized crime family based on the factual

findings at that trial. (Ex. 7 at 2, 13) On appeal, the Second Circuit found that the RICO charges against the alleged LCN members were "amply supported at trial by evidence that established not only the existence and history of the Patriarca family enterprise, but also each defendant's participation, or agreement to participate, in at least two of a long list of predicate acts of racketeering activity, including murder, drug trafficking, extortion, obstruction of justice, and gambling." United States v. Bianco, et al., 998 F.2d at 1114 (Ex. 7 at 2) During the trial, the government introduced as evidence an FBI tape recording of a Patriarca LCN induction ceremony, during which Federico and three other men were inducted into the Patriarca LCN family. (Ex. 7 at 6) The Court of Appeals summarized the FBI's interceptions of the Patriarca LCN induction ceremony of Federico and others, as follows:

During these interceptions the government overheard and recorded a ceremony that inducted into LCN four "made" members of the Patriarca family, including Federico. It recorded, apparently for the first time ever, an induction ceremony of LCN. As part of the ceremony, (1) new inductees took an oath of lifetime allegiance, loyalty, devotion, and secrecy to the enterprise; (2) the "trigger" finger of each inductee was pricked, and his blood was placed on a picture of a saint that was set afire and held by the inductee in

his hands, while he acknowledged that death was his only release from the organization; and (3) each inductee was assigned a "capo" or boss, who was to supervise his criminal activity. (Ex. 7 at 6)

United States v. Bianco, et al., 998 F.2d at 1119.

At the end of 2006, Federico was granted parole with lifetime supervision. (Ex. 1 at 5-7) In June 2007, he became a member of IBT Local 82 in Boston. (Ex. 5; Ex. 1 at 5)

None of the above facts are disputed. Federico contends that he no longer is a member of the Patriarca crime family and has not been one during the time he was a Teamster.

The evidence is to the contrary. Mr. Federico's services to the organized crime family were such that, in 1989, despite having been imprisoned for more than 10 years and still facing an uncertain term of years of incarceration, he was made a member of the family in a formal ceremony in which family members gathered to witness a solemn rite. Federico's contention at his hearing that he performed no services for the Patriarca family in the years either before his induction or in the years following it, is not credible. (Tr. at 13) His initiation into the family, as evidenced by the ceremony itself, was not a

lightly taken step to be soon forgotten by all involved. His lack of candor about services performed on the family's behalf is fully consistent with his continuing to maintain the oath of secrecy about family business that he swore on October 29, 1989. Other evidence of this continuing loyalty is his claim he did not know who the family capos were, including his admitted friend Vincent Ferrara. (Tr. at 15); United States v. Salemme, et al 91 F. Supp. 2d at 281, 284-285 (1999) (Ferrara, whom FBI agents observed arriving at Federico's brother-in-law DiStefano's home with DiStefano the day before Federico's initiation, was one of the Patriarca capos present at Federico's initiation.) At the hearing, Federico would only admit to contact with Patriarca family members and associates that was caught on video or audio tape. (Tr. at 10-18) Otherwise, quite incredibly, he claimed no contact with the Patriarca family on family business at any time. (Tr. 13) His adherence to his vow of secrecy is evidence that he has not withdrawn from the criminal conspiracy.

Indeed, there is no evidence that Federico ever withdrew from the Patriarca family. He has not affirmatively testified against the family or its members and associates. At his hearing, he would reveal no

information about the family's activities or its structure, professing startling ignorance. (Tr. at 10-18) At his hearing, he refused to state not only what service he performed for the family, who were the capos, but also the details of the prosecution of his brother-in-law DiStefano along with an alleged family member in 2003. He still remains in contact with DiStefano at whose home the ceremony was held, and who was observed with the family's consigliere and a capo the day before Federico's initiation. In addition, in the expert opinion of the FBI, a member of the crime family remains one for life. (Ex. 2 at 4; Ex. 3 at 5) In the absence of affirmative evidence of withdrawal and through his continuing adherence to his oath of secrecy about family business, the preponderance of the evidence establishes that Federico was still a member of the Patriarca family when he became a member of the IBT in 2007.

#### **THE LAW**

It is well established that being a member of organized crime brings reproach upon the IBT in violation of its constitution and the court order. (United States v. International Brotherhood of Teamsters (Senese) 745 F. Supp. 908, aff'd, United States v. IBT, 941 F.2d 1292 (2d Cir. 1991), cert. denied, 502 U.S. 1091 (1992)). Federico was

proven to be a member of the Patriarca crime family. His defense is that at the time he joined the IBT in June 2007, he had withdrawn from the criminal conspiracy the Patriarca family embodied.

The Second Circuit Court of Appeals has held that withdrawal from a criminal conspiracy is established only by affirmative acts inconsistent with the object of the conspiracy and communicated in a manner reasonably calculated to reach co-conspirators. See United States v. Borelli, 336 F.2d 376, 388 (1964); see also United States v. Minicone, 960 F.2d 1099, 1108 (1992). Mere cessation of activity is not sufficient. See United States v. Eisen, 974 F.2d 246, 268 (1992). (Exs. 11-13) There is no evidence of Federico taking any affirmative act to disassociate himself from the Patriarca LCN family, such as cooperation with law enforcement investigations of his co-conspirators. Indeed, as Federico admitted during both his hearing and sworn IRB examination, he did not make any attempt to communicate his claimed decision to terminate his LCN membership to anyone in the Patriarca LCN family. (Ex. 1 at 42-43; Tr. at 18-21) Indeed, to the contrary, he steadfastly showed loyalty to the family by maintaining his

oath of secrecy and feigning complete ignorance about its affairs. (Tr. 10- 21)

The evidence that Federico introduced is not to the contrary. The letter from his parole officer merely stated that he has no knowledge of Federico violating any condition of parole. The letter from his attorney, Thomas J. Butters, Esq., asserted that Federico renounced his LCN membership in a letter dated June 30, 2005 to the Massachusetts Parole Board and in his testimony before the Parole Board on May 23, 2006. Federico wrote this letter and provided this testimony only after he was denied a request for parole on May 9, 2005. Moreover, as recognized by Federico's attorney's letter, Federico never directly communicated his claimed renunciation to anyone in the Patriarca LCN family. That testimony before the Parole Board was unpersuasive for the same reasons that Federico's testimony before the IRB is not credible.

#### **CONCLUSION**

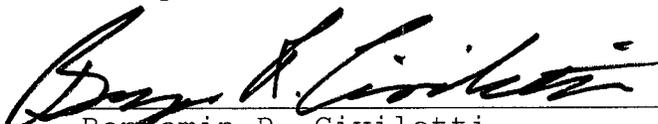
The preponderance of the evidence established Federico brought reproach upon the IBT by continuing to be a member of the Patriarca crime family and thus violated the IBT Constitution. Accordingly, Federico is hereafter permanently barred from holding membership in or any

position with the IBT or any IBT-affiliated entity.  
Federico is permanently barred from seeking or accepting from the IBT or any IBT-affiliated entity any salary, severance payment, allowance, fee, payment for unused vacation, or compensation of any kind except fully vested pension compensation and fully vested welfare benefits; and permanently barred from the date of expulsion from having any contributions made on his behalf by any IBT entity to any pension, health and welfare, severance, or other benefit fund.

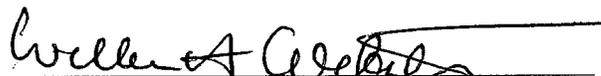
Respectfully submitted,

Dated: July 22, 2010

Members of the  
Independent Review Board

  
Benjamin R. Civiletti

  
Joseph E. diGenova

  
William H. Webster

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	88 Civ. 4486 (LAP)
	:	ACKNOWLEDGMENT OF RECEIPT
	:	OF THE OPINION AND
INTERNATIONAL BROTHERHOOD OF	:	DECISION OF THE
TEAMSTERS, <u>et al.</u>	:	INDEPENDENT REVIEW BOARD
	:	
Defendants.	:	

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This Court hereby acknowledges that the Opinion and Decision of the IRB of Application 145 of the Independent Review Board ("IRB") for the International Brotherhood of Teamsters ("IBT") has been received by this Court, and that this Court has caused to be filed the original documents concerning the Opinion and Decision of Application 145 of the IRB with the Clerk of the Court of the Southern District of New York.

This Court further certifies that the instant Acknowledgment of Receipt ("the Acknowledgment") has been filed with the Clerk of the Court of the Southern District of New York, and that a copy of the Acknowledgment has been forwarded to the following:

John J. Cronin, Jr.  
444 North Capitol Street, NW, Suite 528  
Washington, DC 20001  
Administrator of the Independent Review Board

Vincent Federico  
39 Wellington Road  
Medford, MA 02155  
Respondent

Dated: New York, New York  
\_\_\_\_\_, 2010

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U.S.D.J.

