

JOINT COUNCIL No. 16
INTERNATIONAL BROTHERHOOD OF TEAMSTERS



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July 13, 2010

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

Re: Charge Against Local 1901 Member Joseph Torre

Dear Mr. Cronin,

Enclosed please find Joint Council 16's Report and Recommendation concerning the Charge interposed against Local 1901 Member Anthony Turzio. I also enclose a copy of the transcript of the hearing held by Joint Council 16 on the Charge against Mr. Torre.

Very Truly Yours

A handwritten signature in black ink, appearing to read "George L. Miranda".

George L. Miranda
President

Enclosures

cc: Bradley T. Raymond, Esq.
Charles M. Carberry, Esq.
Joseph Torre

**REPORT AND RECOMMENDATIONS OF JOINT COUNCIL NO. 16
CONCERNING CHARGE AGAINST
LOCAL 1901 MEMBER JOSEPH TORRE**

Introduction

On December 10, 2009, the Independent Review Board ("IRB") issued a report to the Executive Board of IBT Local 1901 recommending that Joseph Torre, a member of Local 1901, be charged with bringing reproach upon the IBT by obstructing , interfering and unreasonably failing to cooperate with the IRB by willfully and without justification refusing to answer questions posed to him during an in-person sworn examination of him on November 23, 2009. The matter was subsequently referred to the Executive Board of IBT Joint Council No. 16 ("Executive Board" or "Joint Council Executive Board") which filed the recommended charge against Torre.

By letter from the Executive Board to Torre dated May 19, 2010, Torre was advised of the charge and instructed to appear before the Executive Board on June 8, 2010, at 10:00 a.m. for a hearing on the charge. Torre did not appear. The Executive Board was represented by attorney Bruce S. Levine, Esq.

The following findings and recommendations of the Joint Council Executive Board are based on the entire record in this case, including documents identified as exhibits in the IRB report. As stated, Torre did not appear at the hearing and, thus, did not contest the charge or offer any evidence in his defense.

Background

Prior to affiliating with the IBT, Local 1901 was an independent union known as The Newspaper and Mail Deliverers' Union of New York and Vicinity ("NMDU"). Local 1901 has approximately 1,500 members who are employed as drivers for the newspaper industry. Local 1901 members deliver newspapers for *The New York times*, *The New York Post*, *The Daily News*, *The Wall Street Journal*, *El Diario* and other newspapers in the New York City Metropolitan Area.

Local 1901 became a Teamster local on March 6, 2009. Local 1901 has had a long history of ties to organized crime. In 1992, NMDU was indicted by a New York State grand jury for enterprise corruption. Several members, including an alleged member of the Bonanno LCN family, two former NMDU presidents and several union foremen were indicted separately and pleaded guilty to various corruption charges. In all, eight individuals pleaded guilty to various corruption charges as a result of this indictment.

On November 17, 2009, subsequent to the NMDU's affiliation with the IBT, the New York City Police Department's Organized Crime Division and the Manhattan District Attorney's Office executed search warrants seeking payroll and employee records at Local 1901's office, the offices of four New York City newspapers and two newspaper distributors.

Torre has been a member of the NMDU since approximately 1982. Torre became a member of the IBT after the NMDU affiliation. At the time that the IRB report was issued, IBT records reflect that Torre's dues were paid through at least July 2009. During Torre's sworn examination on November 23, 2009, Torre testified that he "shapes up" for work at various newspapers by virtue of his seniority at the New York Post.

In 2003, Torre and twenty-seven other individuals were named in a twenty-count indictment in the United States District Court for the Eastern District of New York. The indictment contained a series of alleged criminal acts, including Racketeering Conspiracy. Torre and the other individuals were alleged to be "members and associates of the Bonanno organized crime family of La Cosa Nostra." Fifty racketeering acts were listed in the indictment, including Murder, Extortion, Extortionate Collection of Credit, and Loan Sharking. Torre was specifically alleged to be a soldier or associate of the Bonanno LCN organized crime family, and was charged with one count of Racketeering Conspiracy, two counts of Extortion and one count of Extortionate Collection of Credit. Torre testified during his November 23, 2009 sworn IRB examination that he was sentenced to three years in prison as a result of these charges, and that as of the date of the examination he had thirty-six days of probation remaining.

Charge Against Torre

The IRB recommended that the following charge be filed against Torre, and the recommended charge was adopted and filed by the Joint Council Executive Board:

While a member of Local 1901 and the IBT, you brought reproach upon the IBT in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(1) and (2) and Section 14(i) of the IBT Constitution and obstructed, interfered and unreasonably failed to cooperate with the duties of the Independent Review Board as set forth in Paragraph G of the March 14, 1989 Consent Order in *United States v. International Brotherhood of Teamsters*, 88 Civ. 4486 (S.D.N.Y.), to wit:

On November 23, 2009, you willfully and without justification refused to answer questions during your in-person sworn examination conducted pursuant to Paragraph H.3(c) of the Rules and Procedures for Operation of the Independent Review Board.

Evidence Against Torre

On November 9, 2009, the IRB Chief Investigator sent Torre a notice of sworn examination, which scheduled Torre's IRB sworn examination for November 23, 2009. On November 23, 2009, Torre appeared with his attorney, Vincent J. Licata, Esq. Torre answered questions relating to his pedigree, his employment history and criminal record, and he also admitted that prior to his IRB sworn examination he had received a copy of the IRB Rules.

During the November 23, 2009 examination, Torre asserted his Fifth Amendment privilege and refused to answer questions related to core Consent Decree issues. Torre was given a list of names of members and associates of organized crime, as well as barred Teamster members. He was asked to review the list and circle the names of any individuals he knew personally. Torre was instructed that he would be asked questions about his relationship with any of the individuals whose names he circled on the list. Torre reviewed the list, consulted with his counsel, refused to indicate which individuals on the list he knew personally, and stated that he would not answer questions concerning any of the names on the list. Torre also refused to testify about any of the facts underlying the 2003 indictment, and claimed that he could not remember any of the other people who were arrested along with him. The list of names Torre looked at, which is part of the hearing record, includes the names of fourteen of the twenty-seven people with whom Torre was indicted in 2003.

Torre acknowledged during the sworn examination that he understood that by invoking his Fifth Amendment rights and by refusing to answer questions he could be charged with failure to cooperate with the IRB, and that he could face union disciplinary action including expulsion from the IBT.

Analysis

Pursuant to Paragraph G(a) of the Consent Order, the IRB acted well within the scope of its authority to ask Torre about his association with members of organized crime and barred IBT members. By refusing to answer such questions, Torre violated Article II, Section 2(a) and Article XIX, Section 7(b) (1) and (2) and Section 14(i) of the IBT Constitution by obstructing, interfering and unreasonably failing to cooperate with the duties of the IRB as set forth in Paragraph G of the March 14, 1989 Consent Order. There is direct precedent upholding charges against members who have asserted Fifth Amendment rights and refused to answer questions during their sworn IRB examinations. *See United States v. IBT [Calagna]*, 1991 U.S. Dist. Lexis 11256 (August 14, 1991); Joint Council 16 Decision regarding Vincent Feola dated November 17, 1998; *United States v. IBT [Hickey]*, 945 F. Supp. 96 (S.D.N.Y. 1996). *See also United States v. IBT [Simpson]*, 931 F. Supp. 1074 (S.D.N.Y. 1996), *aff'd*, 120 F.3d 341 (2d Cir. 1997) (IRB proceedings are not state actions in which the Fifth Amendment privilege against self incrimination can provide a defense against self-incrimination).

Based on the foregoing, Torre's invocation of the Fifth Amendment did not excuse him of his obligation to answer questions at his sworn examination before the IRB on November 23, 2009.

Recommended Penalties

Consistent with the "just cause" standard embedded in the Consent Decree and the commonly accepted corollary that discipline be "reasonably related" to the seriousness of the offense, the Joint Council Executive Board recommends the following penalties against Torre:

1. That Torre be permanently barred from holding elected or appointed office or employment with the IBT or any IBT affiliate.

2. That Torre be permanently expelled from membership in the IBT.

In recommending these penalties, the Joint Council Executive Board has considered the discipline imposed by other panels and the IRB in other cases involving failure to cooperate with the IRB. In particular, the Executive Board notes that in general the penalties when a member fails to cooperate with the IRB by failing to answer questions during his IRB sworn investigation, particularly when the failure is repeated, have almost invariably included a permanent bar from Union office or employment and permanent expulsion from membership. Here, Torre has offered no mitigating or extenuating circumstances or explanations for his conduct which would cause us to recommend departure from the traditional penalties for non-cooperation with the IRB.

Conclusion

Accordingly, based on the foregoing, the Joint Council Executive Board recommends the following:

1. That effective immediately, Torre be permanently barred from seeking or holding office, position or employment, directly or indirectly, with the IBT or any other IBT affiliated entity or fund.

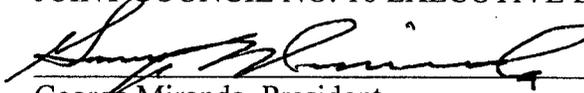
2. That effective immediately, Torre be prohibited from seeking or accepting money or other compensation from the IBT, or any other IBT affiliated entity or fund, except for any vested benefits to which he may otherwise be lawfully entitled by reason of service or employment prior to the date of this decision, and that he also be prohibited from receiving or having any contributions made on his behalf to any IBT affiliated benefit funds by any IBT affiliated entity, except to the extent such contributions relate to service or employment prior to the date of this decision.

3. That effective immediately, Torre be permanently barred from holding membership in the IBT and shall also be barred from all contact or association with officers, members, employees, representatives and agents of the IBT or any IBT affiliated entity or fund.

SO UNANIMOUSLY DECIDED AND RECOMMENDED on July 13, 2010.

JOINT COUNCIL NO. 16 EXECUTIVE BOARD

By:


George Miranda, President