

FD-198
IA App. 51

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INVESTIGATIONS OFFICER, :
 :
 Claimant :
 -v- :
 RICHARD HEILBRUN :
 Respondent. :
-----X

AFFIDAVIT AND AGREEMENT

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

RICHARD HEILBRUN, 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") 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 531;

(b) I am a member of the Executive Board of Local 531, and hold the offices of Secretary-Treasurer of Local 531, Trustee of the Local 531 Severance Fund and Trustee of the Local 531 Prepaid Legal Services Plan;

(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 531, or with any pension, health and welfare or other 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 for the positions described in Paragraph 3(b);

(e) I shall be suspended, effective on the first day after this agreement is approved by the Independent Administrator (the "effective date"), as an officer and employee of Local 531 and the other positions described in Paragraph 3(b) (the "suspension"). The suspension shall be in effect for a period of three months from the effective date. I may continue to pay dues and maintain my membership in Local 531 during the suspension period.

(f) During the suspension period, I shall not attend or participate in any manner in any of the activities or affairs of Local 531, or any other IBT Entity, including but not limited to meetings, discussions, consultations, negotiations, votes, or any other business or activity of the union. I shall not enter or call the offices of Local 531 or any other IBT Entity. I shall

not discuss with any other member, officer, business agent or employee of Local 531 or any other IBT Entity any union matter and shall refrain from any other involvement in the affairs of Local 531 or any other IBT Entity, provided however, I may (i) provide factual information directly and solely to the attorneys for Local 531 as necessary for negotiations or grievances; and (ii) testify if required to do so in arbitrations or other proceedings.

(g) During the suspension period, I shall receive no salary, allowances, gratuities, accrual of pension benefits or any other remuneration or compensation of any kind from Local 531, or any other IBT Entity. I may continue to be covered by my health insurance from Local 531, but shall pay the cost of such insurance coverage during the suspension period out of personal funds, with no contribution by Local 531.

(h) I shall not take or accept, for a period beginning August 1, 1991 and ending one year after the expiration of the suspension period, any compensation or remuneration in money or other things of value to replace the compensation or benefits lost pursuant to Paragraph 3(g) above. For a period of one year after the expiration of the suspension period, any increase in my salary, benefits or other compensation as an officer or employee shall be submitted for prior approval to the Independent Administrator and shall not be implemented unless and until such approval has been given.

4. I have entered into this agreement on the

understanding the Investigations Officer agrees he will not pursue the charges.

5. I understand the Investigations Officer's agreement is limited to the charges annexed as Exhibit A and he expressly reserves the right to pursue charges against any other officer or entity of the IBT or Local 531 arising out of the allegations contained in the charges or any other investigations.

6. I agree this agreement will be submitted to the Independent Administrator for his review and approval. If approved by the Independent Administrator, I agree he will submit it to the United States District Court for the Southern District of New York for review and approval and, if approved by the court, to be entered as an order.

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

8. I make this agreement after consultation with my attorney and I fully understand its terms.

9. 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.


RICHARD HEILBRUN


Sworn to before me
this 5th day of August, 1991


NOTARY PUBLIC

STEPHEN H. GELB
NOTARY PUBLIC, State of New York
No. 31-4837695
Qualified in New York County
Commission Expires November 30, 1991



IRA DROGIN, ESQ.
Attorney for Richard Heilbrun

Agreed:


Charles M. Carberry
Investigations Officer


August 4, 1991

Approved:


Frederick B. Lacey
Independent Administrator

~~August~~ Sept 6, 1991

SO ORDERED:


David N. Edelstein
United States District Judge

~~August~~ Sept 12, 1991

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	X	
INVESTIGATIONS OFFICER, Claimant,	:	
- v -	:	
RICHARD HEILBURN, Secretary-Treasurer, Local 531 Yonkers, New York Respondent.	:	<u>CHARGE</u>
	X	

SIR:

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.

Charge One

You are charged with bringing reproach upon the IBT, aiding the embezzlement of Local 531 money in violation of IBT constitution, Article II, section 2(a) and Article XIX, subsection 6(b)(1), (2) and (3) and breaching your fiduciary duties to the Local's members.

TO WIT, on September 17, 1984, Joseph M. Biasucci, Secretary-Treasurer of Local 531 was indicted by a federal grand jury for, inter alia, embezzling over \$100,000 of the assets of the Local 531 Pension Fund and taking bribes in connection with

his duties at the Fund. On April 19, 1985 Biasucci was convicted on three counts of violating the federal RICO statute and remanded to prison. On June 3, 1985 Biasucci was sentenced to a term of incarceration of seven years and fined \$75,000. On June 19, 1985 despite Biasucci's gross betrayal of the members, his criminal conviction and allegations of his involvement with organized crime, you and other members of the Local 531 executive board voted Biasucci severance, totalling \$25,610, which then he had not requested.

Charge Two

You are charged with bringing reproach upon the IBT in violation of Article XIX, section 6(b)(1), (2) of IBT constitution and Article II, section 2(a) of the constitution and breaching your fiduciary duties to the Local 531.

TO WIT, On or about June 19, 1985 following Biasucci's conviction and public allegations of his involvement with organized crime, you and other board members of Local 531 appointed Philip Totoricci, as Sick and Welfare Fund Administrator, despite both his being convicted of extortion for

activities while a union official and his being member of La Cosa Nostra. You failed to investigate his background and to act appropriately.

Dated: New York, New York
June 17, 1991

Very truly yours,



Charles M. Carberry
Investigations Officer
30th Floor
599 Lexington Avenue
New York, New York 10022

cc: Frederick B. Lacey, Esq.
James T. Grady, Esq.
Edward T. Ferguson, Esq.