

OFFICE OF THE INDEPENDENT ADMINISTRATOR
c/o LeBOEUF, LAMB, LEIBY & MacRAE
Gateway Center I, Suite 603
Newark, NJ 07102-5311
(201) 643-8000
Fax (201) 622-6693

Frederick B. Lacey
Independent Administrator

September 14, 1992

VIA UPS NEXT DAY AIR

Honorable David N. Edelstein
United States District Court
United States Courthouse, Room 2104
New York, NY 10007

Re: APPLICATION XCI BY THE INDEPENDENT ADMINISTRATOR
UNDER THE CONSENT ORDER DATED MARCH 14, 1989

Dear Judge Edelstein:

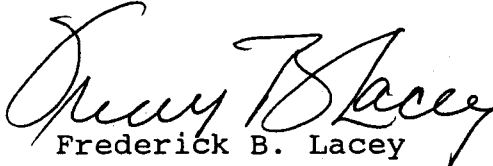
I transmit herewith one original and two copies of my Application XCI, for an Order by Your Honor directing compliance with my September 14, 1992, Decision regarding Bernard Adelstein.

In addition to the Application, please find enclosed the original and two copies of:

- (a) My September 14, 1992, Decision; and
- (b) 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, Decision and Affidavit of Service with the Clerk's office.

Respectfully yours,


Frederick B. Lacey

FBL:dsg

cc: Charles M. Carberry, Esq.
Richard N. Gilberg, Esq.
Steven Bennett, AUSA
Barry Slotnick, Esq.

UNITED STATES DISTRICT COURT
SOUTHER DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	88 Civ. 4486 (DNE)
	:	
Plaintiff,	:	APPLICATION XCI BY THE
	:	INDEPENDENT ADMINISTRATOR UNDER
v.	:	THE CONSENT ORDER DATED MARCH
	:	14, 1989 -- DECISION OF THE
INTERNATIONAL BROTHERHOOD OF	:	INDEPENDENT ADMINISTRATOR IN
TEAMSTERS, CHAUFFEURS, WARE-	:	THE MATTER OF THE HEARING OF
HOUSEMEN AND HELPERS OF	:	BERNARD ADELSTEIN
AMERICA, AFL-CIO, et al.	:	
	:	
Defendants.	:	

Application is made by the undersigned as Independent Administrator for ruling by the Honorable David N. Edelstein, United States District Judge for the Southern District of New York, on the issues raised by Bernard Adelstein ("Adelstein") during a hearing before me on a charge filed against Adelstein by the Investigations Officer. I have decided these issues in a decision dated September 14, 1992, a copy of which is enclosed herewith.

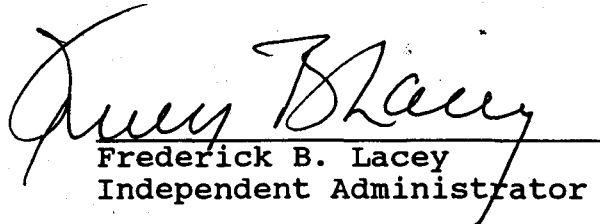
I have concluded that there were just cause for finding, and have found, that Adelstein brought reproach upon the IBT by "knowingly associating" with James Failla, a member of the Gambino Organized Crime Family of La Cosa Nostra.

As penalty, I permanently barred Adelstein from the IBT. Thus, Adelstein is immediately to remove himself from all of his IBT-affiliated Union positions, including membership in the IBT, and draw no money compensation therefrom, or from any other IBT-affiliated source.

In addition, I directed that, consistent with my opinion in Investigations Officer v. Senese, et al., Supplemental Decision of the Independent Administrator (November 29, 1990), aff'd, United States v. IBT (Application XVI), 753 F.Supp. 1181 (S.D.N.Y. 1990), aff'd, 941 F.2d 1292 (2d. Cir. 1991), that sanctions be imposed upon Adelstein's employee benefits.

I did not voluntarily stay my Decision or the penalties imposed pending review by Your Honor as I found it in the best interest of the IBT that Adelstein immediately be purged from the Union.

Nonetheless, it is respectfully requested that an Order be entered affirming my September 14, 1992, Decision, if Your Honor finds it appropriate.


Frederick B. Lacey
Independent Administrator

Dated: September 14, 1992

INVESTIGATIONS OFFICER,

Claimant,

v.

BERNARD ADELSTEIN,

Respondent.

DECISION OF THE
INDEPENDENT ADMINISTRATOR

A charge having been filed by the Investigations Officer, Charles M. Carberry, against Bernard Adelstein ("Adelstein"), a hearing was held before me. Adelstein was represented throughout by Barry I. Slotnick, Esq. Post-hearing submissions were received from Adelstein and the Investigations Officer.

Adelstein is Secretary-Treasurer of Local 813 and President of Local 1034 in the New York City area. Adelstein is also Secretary-Treasurer of the Executive Board of Joint Council 16. Adelstein has been the principal officer of Local 813 since the Local's origin in 1951.

I. The Charge

The Investigations Officer charges that Adelstein has violated:

Article II, section 2(a) and Article XIX, subsection 6(b) (1) and (2) of the International Brotherhood of Teamsters (IBT) constitution, by conducting [himself] in

a manner to bring reproach upon the IBT and by violating [his] oath,

TO WIT, while an officer of Local 813, [he] knowingly associated with members and associates of La Cosa Nostra including James Failla, also known as Jimmy Brown, and Matthew Ianniello, also known as Matty the Horse, and Anthony Corallo, also known as Tony Ducks.

The charge against Adelstein implicates two provisions of the IBT Constitution. The first is Article XIX, Section 6(b),¹ which sets forth a non-exhaustive list of grounds for bringing disciplinary charges. That list includes:

(1) Violation of any specific provision of the Constitution, Local Union By-laws or rules of order, or failure to perform any of the duties specified thereunder.

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

Second, Article II, Section 2(a), is also implicated. This section, which contains the oath of office mentioned in Article XIX, Section 6(b)(2), mandates that all members shall conduct themselves "at all times in such a manner as not to bring reproach upon the Union"

II. Adelstein's General Defenses

Adelstein argues that his association with James Failla ("Failla"), Matthew Ianniello ("Ianniello") and Anthony Corallo ("Corallo") occurred solely and exclusively in the course of the

¹ The Investigations Officer's IBT Constitutional references are to the 1986 Constitution. The IBT Constitution was amended, however, in 1991. As a result of those amendments, Article XIX, Section 6(b) is now designated Article XIX, Section 7(b).

performance of his duties as a Union officer. Respondent's Brief, at 6-9. Adelstein argues that he brought credit and honor to the Union "by standing up to them, enforcing negotiated contracts, conducting audits and collecting monies due the union." Id. at 9.

Adelstein explains that Local 813 principally represents Teamsters employed within the private sanitation industry and that Failla is the head of and principal negotiator for the trade association that represents the New York private garbage collection companies. Therefore, Adelstein argues that because Failla negotiates on behalf of the employers during collective bargaining, his association with Failla is required by law. Id. at 8-9. As a result, Adelstein contends that his refusal to negotiate in good faith with Failla and his trade association would have constituted an unfair labor practice. Id. at 9.

Similarly, Adelstein argues that Ianniello was a principal in a private sanitation company and because Adelstein was a Union officer, he was required to meet with Ianniello on the one instance that they did meet. Id. at 6. Adelstein alleges that his one meeting with Ianniello was inadvertent and required because Ianniello was a partner in a firm that had a contract with Local 813 at that time. Adelstein also alleges that Corallo was an IBT member in the mid-1950's, and at the time Adelstein and Corallo associated, all contact between them related to Union business and functions. Id. at 7.

III. The Investigation's Officer's Case

The Investigations Officer has a just cause burden of proving that Adelstein brought reproach upon Local 813 by knowingly associating with members and associates of La Cosa Nostra (sometimes referred to as "LCN"). The Investigations Officer must satisfy this burden by a preponderance of the evidence. United States v. IBT, 754 F.Supp. 333, 337-38 (S.D.N.Y. 1990). To sustain his burden, the Investigations Officer must show that Adelstein knew those with whom he associated were members of organized crime. The Investigations Officer need not establish that La Cosa Nostra controlled Adelstein or Local 813, that Adelstein knew the details of his associates' criminal activity, or that he participated in any of these criminal activities. Investigations Officer v. Cozza, Decision of the Independent Administrator (January 4, 1991) at 25, aff'd, United States v. IBT, 764 F. Supp. 797 (S.D.N.Y. 1991).

The Investigations Officer's case rested primarily on the Declaration of Federal Bureau of Investigation ("FBI") Special Agent Brian F. Taylor. The Taylor Declaration was submitted in lieu of direct testimony but was supplemented by Agent Taylor's testimony on cross-examination. The Investigations Officer requested that Agent Taylor be deemed an expert on the structure, activities and membership of the La Cosa Nostra Families in the New York area.

Agent Taylor has been a Special Agent with the FBI for over fifteen years. Taylor Declaration at ¶ 1. He is currently

assigned to the FBI's New York office where he serves as Coordinating Supervisory Special Agent of all organized crime investigations. Id. at ¶ 2. For over fourteen years of his career in the FBI, Agent Taylor has been assigned to conduct investigations regarding organized crime or to supervise other Special Agents who were conducting such investigations. The bulk of Agent Taylor's investigations has been into the organized crime activities of the La Cosa Nostra Families operating in the vicinity of New York City and Buffalo, New York. Id. at ¶¶ 3, 5. Through his experience as a Special Agent and a Supervisory Special Agent, Agent Taylor is familiar with the FBI's investigations and intelligence information regarding La Cosa Nostra activity. Id. at ¶ 6. Agent Taylor is also fully knowledgeable about the various investigative techniques used by the FBI in organized crime investigations. Ibid. During his fifteen years of investigating organized crime, Agent Taylor has interviewed, met, observed, conducted surveillances of and arrested numerous members and associates of organized crime. Ibid. Agent Taylor has also testified in criminal prosecutions involving La Cosa Nostra members and associates and in other legal hearings and proceedings concerning members and associates of La Cosa Nostra. Id. at ¶ 7.

Although Adelstein concedes that there was little question that Agent Taylor has a generalized knowledge of the workings of La Cosa Nostra, Adelstein argues that Agent Taylor possesses minimal knowledge concerning LCN activity within the garbage industry and

concerning Adelstein. Respondent's Brief, at 2. Adelstein also complains that when questioned on the details of how the LCN controlled Adelstein, Agent Taylor stated he did not know or declined to answer so as not to jeopardize an ongoing investigation. Id. at 2, 4-5.

I find these exceptions to the credentials and knowledge of Agent Taylor to be irrelevant. The Investigations Officer offered Agent Taylor as an expert on the structure, activities and membership of La Cosa Nostra. Agent Taylor's specific knowledge of mob connections to the garbage industry or to Adelstein is not a necessary component of a finding that Agent Taylor is such an expert.

Given Agent Taylor's extensive background and experience, I accept him as an expert knowledgeable in investigative procedures into organized crime and in the structure of organized crime in the New York City area. It is noted that I have previously found Agent Taylor to be such an expert in Investigations Officer v. Buckley, et al., Decision of the Independent Administrator (November 18, 1991) at 6, aff'd, United States v. IBT, 782 F. Supp. 238 (S.D.N.Y. 1992).

IV. The Organized Crime Connections of Adelstein's Alleged Associates

As stated at the outset, the Investigations Officer alleges that Adelstein, while an officer of Local 813, knowingly associated with members and associates of La Cosa Nostra, including Faila,

Ianniello and Corallo.

A. Failla

Agent Taylor identified Failla as a "Capo" in the Gambino Family of La Cosa Nostra. Taylor Declaration at ¶ 32. I accept as credible this identification, noting that Failla has previously been found to be a member of La Cosa Nostra in Investigations Officer v. Lombardozzi, Decision of the Independent Administrator (May 16, 1991) at 9 n.2, aff'd, United States v. IBT, 88 Civ. 4486 (DNE), slip op. (S.D.N.Y. July 18, 1991).²

Failla's organized crime ties are evidenced by many factors. Many self-admitted LCN members have identified Failla as a LCN member. In his deposition taken in connection with the case of United States v. International Brotherhood of Teamsters, 88 Civ. 4486 (DNE) (S.D.N.Y.), Aladena "Jimmy" Fratianno ("Fratianno"), a self-admitted LCN member, identified Failla as, at one time, "Acting Underboss" in the Gambino Family. Taylor Declaration at ¶ 22. Vincent Cafaro ("Cafaro"), another self-admitted LCN member, also identified Failla as a "Capo" in the Gambino Family. Id. at ¶ 32. Three additional self-admitted LCN members also identified Failla as a Gambino Family member: Angelo Lonardo ("Lonardo"), Peter Chiodo ("Chiodo") and Alphonse D'Arco ("D'Arco"). Ibid. Additionally, the Permanent Senate Subcommittee on Investigations

² This finding was based upon the Declaration of another FBI Special Agent and was supported by similar evidence.

("the McClellan Committee") publicly identified Failla as a Gambino Family member and "Capo." Ibid.

B. Ianniello

Ianniello is considered by the FBI to be an influential member of the LCN Genovese Family. Taylor Declaration at ¶ 56. Fratianno and Cafaro both identified Ianniello as a "Capo" in the Genovese Family. Ibid. The McClellan Committee publicly identified Ianniello as a LCN Genovese Family member. Ibid. Finding this evidence well corroborated, I hold that the Investigations Officer has established that Ianniello was a member of the LCN Genovese Family.

C. Corallo

Agent Taylor identified Corallo as an influential member of the LCN Luchese Family. Id. at ¶ 44. This identification, like the others, is well corroborated. Fratianno identified Corallo as a Luchese Family member. Ibid. Cafaro identified Corallo as an influential member and former "Boss" of the Luchese Family. Ibid. The McClellan Committee publicly identified Corallo as a LCN member. Ibid. When subpoenaed before the McClellan Committee, Corallo refused to answer any questions concerning his Union activity and invoked his Fifth Amendment privilege. Ibid. Finally, Corallo was convicted under indictment in United States v. Salerno, et al., 85 Cr. 139 (RO) (S.D.N.Y.). Ibid. In that case,

it was proven beyond a reasonable doubt that Corallo was a member of the LCN criminal enterprise. Corallo is currently incarcerated today. Ibid. I find the evidence offered by the Investigations Officer to be credible and hold that it establishes Corallo to be a member of the LCN Luchese Family.

V. Adelstein's Relationships with his Associates

It is now settled that a prohibited knowing association with an organized crime figure is established when the contacts in question are purposeful and not incidental or fleeting. See Investigations Officer v. Senese, et al., Decision of the Independent Administrator (July 12, 1990) at 35, aff'd, 745 F. Supp. 908 (S.D.N.Y. 1990). Adelstein claims that any contacts with the foregoing persons, although purposeful, occurred solely and exclusively in the course of Adelstein's performance of his duties as a Union officer. I need not decide whether a Union officer's association with an organized crime member solely for purposes of attending to Union business is a prohibited association, given that the evidence before me establishes that Adelstein's links with organized crime are widespread and reach far beyond legitimate Union business.

A. Failla

Adelstein admitted to knowing Failla and having a relationship of settling union/employer disputes with him for approximately

thirty years. T457-12 to T458-13.³ In addition to contract-related discussions, Adelstein admitted to being in the company of Failla at social affairs hosted by Failla's trade association. T535-17 to 22. According to Adelstein, he and Failla met "once a month, or at a funeral, or at an affair of some kind, but otherwise that's all, and at negotiations." T486-11 to 16.

The Investigations Officer offered substantial evidence that Adelstein did more than just negotiate contracts with Failla. This evidence established that the LCN Gambino Family controlled Local 813 through contact between Adelstein and Failla.

In the recent criminal racketeering trial of United States v. Gotti, 90 Cr. 1051 (ILG) (E.D.N.Y.), self-admitted Gambino Family "Underboss" Salvatore Gravano ("Gravano") testified that Failla controlled the private sanitation industry in the New York area for the Gambino Family. Ex. L to the Taylor Declaration, at 4362. According to Gravano, Failla "is the head of the association and he controls the union, 813, Bernie Adelstein [sic] answers directly to Jimmy Brown [i.e. Failla] so he [that is, Failla] controls the garbage industry for his family." Ibid.

Gravano's testimony concerning the LCN-related association between Failla and Adelstein was corroborated by Harold Kaufman ("Kaufman"), a former employee of Local 813, a participant in the

³ Unless otherwise indicated, transcript references are to the April 24, 1991, proceedings before me. The first reference, in this case "T457," refers to the page number (p. 457). The second reference, in this case "-12," refers to the line number (line 12).

Federal Witness Security Program and a self-admitted "affiliate[]" of the LCN Genovese Family. Ex. AZ to the Taylor Declaration, at 1. Kaufman stated in his 1992 statement to two FBI Special Agents that:

Bernie Adelstein worked closely with James Failla, who is also known as "Jimmy Brown," to maintain organized crime domination of the private sanitation industry. Failla was the head of the New York City Trade Waste Association, a group comprised of private carting companies. Failla was also a member of the Gambino Family

Through their mutual action and their control of Teamsters Local 813 and the New York City Trade Waste Association, Bernie Adelstein and Failla controlled the waste carting industry in New York City for the Gambino Family and the other interested organized crime groups. It was my understanding that Bernie Adelstein and Failla met at least every two weeks to discuss deals in the waste carting industry Through his relationship with the Gambino Family, Bernie Adelstein received its support in keeping him in power in Teamsters Local 813

Id. at 2-4.

These statements by Gravano and Kaufman that Adelstein and Failla worked together to control Local 813 for the Gambino Family were corroborated by submission of a surveillance tape and transcript of an April 11, 1983, conversation among Paul Castellano⁴ ("Castellano"), the late "Boss" of the Gambino Family,

⁴ Taylor identified Castellano as the former "Boss" of the Gambino Family, who was murdered in Manhattan on December 16, 1985. Taylor Declaration at ¶ 29. This identification is well corroborated in the record and I accept it. Ibid.

Failla and other Gambino associates that was electronically intercepted by the FBI ("Castellano tape").⁵ Exs. AU and AV to the Taylor Declaration. The subject of the conversation was a jurisdictional dispute between IBT Locals 282 and 813.⁶ In the conversation, the LCN members recalled that John Gotti, the current "Boss" of the Gambino Family,⁷ had previously met with Adelstein and a Local 282 officer to "lay down the law" but the dispute resurfaced. Ex. AV to the Taylor Declaration, at 18. The LCN members were asking Castellano whether the jurisdictional dispute should be resolved in favor of Local 813 or Local 282. Id. at 22-27. During this conversation, Castellano remarked: "Well, you know, as far as I'm concerned, uh, we got control of both." Id. at 19.

Chiodo, a self-admitted "Capo" in the Luchese Family, also

⁵ Adelstein objects to the submission of this tape because it is inaudible, unintelligible and unreliable. Respondent's Brief, at 13-14. The tape presented at this hearing was a copy of the original tape recording which was entered into evidence in United States v. Corrao, 85 Cr. 452 (JBW) (E.D.N.Y.). In that case, the transcript was given to the jury as an aid. I find the tape to be audible and the transcript reliable and trustworthy. Those portions of the conversation that could not be transcribed do not make the intelligible portions meaningless or unreliable.

⁶ Adelstein has acknowledged in testimony before the Investigations Officer that such jurisdictional disputes did exist between Locals 282 and 813. Investigations Officer's Ex. AO, at 80-81.

⁷ In Investigations Officer v. Lombardo, supra, Decision of the Independent Administrator at 5, I accepted the identification of Gotti as the current "Boss" of the Gambino Family. Gotti was recently convicted in the criminal racketeering trial in United States v. Gotti, 90 Cr. 1051 (ILG) (E.D.N.Y.).

corroborated the association between Failla and Adelstein in a statement made to FBI Special Agents Donald W. McCormick and Stephen Grimaldi on October 3, 1991. In Agent McCormick's Declaration, which sets forth the substance of Chiodo's statement, Agent McCormick reported:

Failla was considered by Chiodo to be the dominant organized crime figure in the garbage carting industry in New York City, where he settled disputes between the carting companies and had the "final say" when resolving those disputes Chiodo stated that Failla's power in the garbage carting industry was derived from his control of International Brotherhood of Teamsters Local 813 and its secretary-treasurer, Bernie Adelstein. That control of Local 813 and Adelstein gave Failla and the Gambino Family enormous influence in the garbage carting industry.

Ex. J to the Taylor Declaration, at 1.

Evidence of the Gambino Family's influence over Adelstein was further corroborated in a taped conversation ("Jaguar tapes") of another Luchese "Capo," Salvatore Avellino⁸ ("Avellino"), in which Avellino complained that Local 813 was controlled by Failla and Castellano for the Gambino Family. Ex. AT to the Taylor Declaration, at 2. This conversation among Avellino, Thomas Ronga and Emedio Fazzini, was held in a Jaguar automobile on June 28, 1983, and was intercepted by investigators for the New York State

⁸ Agent Taylor identified Avellino as a member of the LCN Luchese Family. Taylor Declaration at ¶ 45. I find this identification to be well corroborated in the record and I accept it. Ibid. D'Arco has stated that whereas Failla controlled the private sanitation industry for the Gambino Family, Avellino controlled this industry for the Luchese Family. Ex. J to the Taylor Declaration, at 1.

Organized Crime Task Force. Id. at 1.

Avellino: This is what I'm looking for, you see. Ahh, let's designate somebody. I don't want 813. You notice how I threw in 813A? . . . Now, we, let us, let me be able to pick somebody for that office. Do you follow what I'm bringing out?

Ronga: Yeah.

Avellino: We want to put a delegate. You got me?

Fazzini: Yeah.

Avellino: You see? Like we want, he puts a president out there. See?

Ronga: Right.

Avellino: Then it's our fuckin' union. Not that it's Jimmy Brown's union, not that it's Paul Castellano's union. It's, it's, it's theirs and ours, in other words. You understand. What . . . ?

Ronga: We got the "A."

Avellino: They're claiming 813.

Id. at 2.

Adelstein admitted to a thirty year relationship with Failla during which they met "once a month." I find Adelstein's contention that these meetings occurred solely in their capacity as negotiators lacks credibility. Given the substantial evidence that Failla and Adelstein worked together to effect control over Local 813 for the benefit of the Gambino Family, I find that the contacts between Adelstein and Failla extended far beyond legitimate Union business and thus, evidence a clear, prohibited association with a member of La Cosa Nostra.

B. Ianniello and Corallo

The Investigations Officer offered evidence that Adelstein associated with Ianniello once in or about 1974 or 1975 and documented one association with Corallo in 1955. Because I have found that Adelstein's purposeful associations with Failla were so deep-rooted, I need not decide whether the Investigations Officer has established a prohibited association with Ianniello and Corallo.

VI. Adelstein's Knowledge Of Failla's Organized Crime Ties

I have found that the Investigations Officer has shown that Adelstein associated with Gambino Family member Failla. I have also found that the purpose of that association was to benefit the Gambino Family by advancing its interests in the private sanitation industry. From Adelstein's interaction with Failla for the benefit of the Gambino Family, I can reach no other conclusion than that Adelstein knew that Failla was a member or associate of the Gambino Family. See United States v. IBT, 764 F.Supp. 797, 801-02 (S.D.N.Y. 1991) ("The trier of fact must infer knowledge and intent by considering the facts and circumstances, including the individual's acts and words, and then draw rational inferences from those facts and circumstances.").

Adelstein himself admits that he was well aware of organized crime's infiltration into the private sanitation industry. In his closing remarks at the hearing before me, Adelstein stated:

I didn't bring any mobs into the industry; they were there. I had to contend with them. Some of them were in the business, and some represented the employers . . .

I didn't put them in the industry, the mobs, they were there.

T576-18 to 21; T577-14 to 15. Adelstein also testified that mob members had attempted to bribe him. T577-10 to 13. In addition, Adelstein had been specifically notified about organized crime involvement in his Local when he testified before the McClellan Committee in 1958. See Ex. R to the Taylor Declaration, at 329.

Contacts by organized crime members with Adelstein were also the subject of widespread media attention as were allegations of LCN corruption in Local 813. These allegations were made public by the New York State Assembly in its 1986 report entitled "Organized Crime's Involvement in the Waste Hauling Industry" (Investigations Officer's Ex. BE, at 77); by the McClellan Committee in its 1957 and 1958 reports (Exs. R and AN to the Taylor Declaration); by Steven Brill in his 1978 book entitled The Teamsters (Ex. AP to the Taylor Declaration, at 173); and The Rand Corporation in its 1987 report entitled "Racketeering in Legitimate Industries" (Respondent's Ex. 9, at 38-46). Adelstein admitted that he was aware of the allegations made public by the McClellan Committee and The Rand Corporation. T548-21 to T549-16; T549-22 to T550-5. Adelstein also admitted that he was aware that both Kaufman and Gravano had publicly given sworn testimony in 1986 and 1991, respectively, that Local 813 was involved with organized crime.

T549-17 to 21; T550-6 to 11. Adelstein has also admitted to reading such allegations in newspapers, magazines and other periodicals. Investigations Officer's Ex. AO, at 32.

Despite being confronted with these numerous allegations of corruption in his Local, Adelstein never conducted an investigation into these allegations nor requested that an investigation be conducted. T551-3 to 14. When asked about this failure to investigate, Adelstein replied, "I saw no reason for it." T551-14. This failure to investigate simply adds strength to the already well-supported conclusion that Adelstein knew Failla was a LCN member during their years together.

Adelstein's knowledge of Failla's connection to the Gambino Family and Adelstein's cooperative association with him are further corroborated by Adelstein's involvement with other LCN members. Although Adelstein has not been formally charged with associating with these other mobsters, a review of these other organized crime contacts is highly probative. The evidence submitted by the Investigations Officer revealed long-term associations by Adelstein with numerous LCN members that spanned decades. The historic scope of this evidence confirms that Adelstein's association with members of organized crime was not inadvertent, incidental or fleeting.

Adelstein testified before me that in 1937, he began his Union career when mob member Joseph Parisi "appointed" him in charge of the Private Sanitation Unit of Local 27. T450-23 to T451-3; T494-10 to 16; T522-2 to 9. By the time Local 813 was formed, Adelstein

and Parisi had been close associates for fifteen years. T521-4 to 9. In his testimony, Adelstein acknowledged that he knew Parisi had mob connections. T522-2 to 9.

Adelstein also associated with Vincent Squillante. T551-15 to 18. The McClellan Committee found Squillante to be a LCN member. Ex. R to the Taylor Declaration, at 327. While Adelstein did not acknowledge whether Squillante had LCN ties, he did admit that he knew Squillante was a narcotics trafficker. T551-19 to T552-6. In regards to Mr. Adelstein's association with Squillante, the McClellan Committee found:

that Bernard Adelstein, secretary-treasurer of teamsters local 813, the dominant union in New York carting, betrayed every principal of trade unionism by serving as an abject tool in all of Squillante's empire-building activities. With his own authority over local 813 as absolute as Squillante's over the management side, Adelstein was able to put his union at the complete disposal in enforcing monopolies, punishing trade association critics of Squillante, and blinking at Squillante-favored nonunion firms.

Ex. R to the Taylor Declaration, at 328-29. Produced pursuant to a subpoena by the McClellan Committee, Adelstein's personal telephone book listed the telephone numbers of several LCN members, including Squillante. Ex. AN to the Taylor Declaration, at 6978-84.

Adelstein also associated with Gambino Family member Pasquale Crapanzano⁹ for nearly forty years. T499-16 to 19. Crapanzano

⁹ Agent Taylor identified Crapanzano as a member of the Gambino Family. Taylor Declaration at ¶ 35. This identification was also well corroborated in the record and I accept it. Ibid.

and Adelstein worked together in Union affairs and sat together as officers of Joint Council 16. T499-20 to 23; T502-8 to 11. Adelstein admitted that during this period of association with Crapanzano, he was aware that Crapanzano had been convicted of taking money from the employers of IBT members. T500-15 to 25. Despite this awareness, Adelstein, as an officer of the Joint Council, never instituted or recommended disciplinary proceedings against Crapanzano. T501-5 to 16. Adelstein also admitted to being aware of allegations that Crapanzano was a member of La Cosa Nostra and that Crapanzano had been charged by the Investigations Officer on June 28, 1990, for being a member of the LCN Gambino Family. T503-15 to 18; T506-23 to T507-3. Despite his awareness that the Consent Order, dated March 14, 1989, between the United States and the IBT, enjoined IBT members and officers from associating with LCN members and associates, Adelstein continued to associate with Crapanzano. T504-13 to T507-6. Subsequently, when Crapanzano agreed to resign permanently as a result of the charges brought by the Investigations Officer, Adelstein was sympathetic and contributed \$100 towards a going-away gift. T508-3 to 13.

Adelstein also enjoyed a relationship with former LCN "Boss" Carlo Gambino.¹⁰ According to Kaufman, Gambino was responsible for placing Adelstein into his position in Local 813 when it was

¹⁰ Agent Taylor identified Gambino as a former "Boss" of the Gambino Family, which is named for him. Taylor Declaration at ¶ 30. Again, this identification was well corroborated in the record and I accept it. Ibid.

formed. Ex. AZ of the Taylor Declaration, at 3. Adelstein admitted to meeting Carlo Gambino on one occasion. T512-14 to 20.

In addition, the Investigations Officer's evidence showed that Adelstein frequently attended social affairs and funerals where LCN members were present. For example, Adelstein admitted that he attended the wedding of Gerald Corallo, Anthony Corallo's son, and was in the company of Avellino at that wedding. T513-19 to T514-14. Adelstein testified that he knew Avellino was affiliated with La Cosa Nostra but implied that he learned this fact later. T513-21 to 23. Adelstein admitted that he may have also met Avellino at funerals. T514-8 to 11. Adelstein also admitted to meeting Castellano at a funeral at a time when he knew that Castellano was a reputed member of organized crime. T512-18 to T513-13.

I find that given the number and length of relationships with members of organized crime, Adelstein's testimony that he was unaware of his associates' organized crime ties while he was associating with them lacks credibility. Evidence submitted by the Investigations Officer has shown decades-long relationships with an entire cast of characters who were members of organized crime. After examining Adelstein's long-term ties to both union-side and employer-side members of organized crime, as well as his association with such notable LCN members as Gotti, Gambino and Castellano, I find that "it is inconceivable that he was unaware that they were infamous members of [New York's] underworld." Investigations Officer v. Cozza, supra, Decision of the Independent

Administrator at 24-25. In short, I find that this evidence of Adelstein's association with these other LCN figures corroborates the evidence that Adelstein knowingly associated with Gambino Family member Failla.

VIII. Adelstein's Defenses

Adelstein argues that the evidence fails to show that he was controlled by La Cosa Nostra. He cites to the fact that Agent Taylor was not able to testify as to the details of how organized crime controlled Adelstein or Local 813. Respondent's Brief, at 4-6. Adelstein also points out that Agent Taylor knew of no evidence of sweetheart contracts, of embezzlement, or of LCN-affiliated shop stewards, business agents or Local members. Id. at 4-5.

According to Adelstein, Gravano, Chiodo and Kaufman were merely repeating "what is essentially mob folklore" that the Gambino Family and Failla controlled Adelstein and Local 813. Id. at 11. Adelstein argues that this folklore has no basis in reality or fact. Ibid. I must reject Adelstein's position. Not only is the Gambino Family's control over Local 813 corroborated by the independent statements of Gravano, Chiodo, and Kaufman, but they are also corroborated by the intercepted conversations of Castellano and Avellino. Listening to Castellano explain to mob associates that he has "control" over Local 813 makes it clear that, as far as the "Boss" of the Gambino Family was concerned, organized crime's infiltration into Adelstein's Local was far more

than idle folklore.

Adelstein also attacks the credibility of Kaufman. Respondent's Brief, at 11-12. At the hearing, Adelstein requested that either Kaufman or one of the two FBI Agents who took Kaufman's statement be produced for cross-examination. T150-23 to T151-3; T154-4 to 6. In response to Adelstein's request, the Government stated that it would not produce Kaufman due to his participation in and protection under the Federal Witness Security Program. T159-22 to T160-4; T162-8 to 10. As another basis for its refusal to produce Kaufman, the Government asserted its interest in protecting the confidentiality of its informants and indicated a possibility that Kaufman could be playing a role in other investigations. T160-9 to 13. The Government also declined to produce one of the Agents who took Kaufman's statement and instead opted to rely upon the Declaration and testimony of Agent Taylor. T157-24 to T158-16.

As I indicated in Investigations Officer v. Trivigno, Decision of the Independent Administrator (March 12, 1991) at 26, aff'd, United States v. IBT, 791 F. Supp. 421 (S.D.N.Y. 1992), when the Government precludes the disclosure of corroborating material, the Investigations Officer is as much at a disadvantage as the Respondent, given that the Investigations Officer faces the risk that his uncorroborated evidence may be rejected by me. I indicated this risk to the Investigations Officer and Adelstein at the hearing. T162-11 to T163-13.

I find Kaufman's statement to be reliable, and I accept it and accord it weight. Kaufman's statement of Adelstein's association with Failla to effect LCN control over Local 813 was well corroborated by the statements of Gravano, Chiodo, Castellano and Avellino.¹¹

IX. The Penalty to be Imposed

Adelstein's associations with the underworld are repugnant to a Union committed to cleansing itself of the "hideous influence of organized crime." It is now well-settled that the LCN's infiltration into New York IBT Locals has a long and sordid history. See Investigations Officer v. Sasso, et al., Decision of the Independent Administrator (July 22, 1992) at 11-20. Adelstein's accommodation to mob associates did nothing but fuel the fire of organized crime's control over New York based IBT Locals. There is only one just and reasonable penalty to be imposed when a Union officer sees fit to associate with mob bosses and underlings. This penalty is permanent debarment from the very Union upon which this conduct brought reproach. Only by cleansing the IBT of the likes of Adelstein can the Union ever hope to function as a corruption-free, democratic organization.

I have considered the letters I have received from the many

¹¹ Although I indicated that Adelstein was free to apply to Judge Edelstein to seek production of Kaufman or one of the FBI Agents who took his statement, Adelstein failed to make such an Application. T163-14 to 18.

Union members who exalted Adelstein's knowledge and experience in labor related dealings. However, I am confident that an equally qualified Union leader, who is free from the reach of organized crime, can be found to fill the vacancy created by Adelstein's debarment.

By virtue of this decision, Adelstein is permanently barred from the IBT. As a result, Adelstein must remove himself from all of his IBT-affiliated Union positions including membership in the IBT. Adelstein shall draw no money or compensation therefrom or from any other IBT-affiliated source. In addition, I will impose sanctions impacting upon Adelstein's employee benefits (including pension, health and welfare benefits). See Investigations Officer v. Senese, Supplemental Decision of the Independent Administrator (November 29, 1990), aff'd, United States v. IBT, 753 F. Supp. 1181 (S.D.N.Y. 1990), aff'd, 941 F.2d 1292 (2d Cir. 1991).

As is my practice, I invited Adelstein to submit a schedule of his benefits as well as a memorandum on the issues raised in imposing sanctions touching upon those benefits. Adelstein, however, did not provide me with any submission regarding his benefits. Despite this failure to provide me with a submission, sanctions impacting upon such benefits, to the extent they exist, are in order.

The first category of benefits to address are those that are administered by both IBT-affiliated persons and entities, on the one hand, and non-IBT-affiliated persons and entities on the other.

In the past, I have characterized such benefits as "Third-Party Plans." If Adelstein is a participant in any Third-Party Plan, I direct that the IBT and any affiliate that may contemplate making payments, not make, or discontinue making, payment of Union funds to such Third-Party Plans on Adelstein's behalf. This ruling does not interfere with Adelstein's right to receive any benefits that may already be vested in such plans.

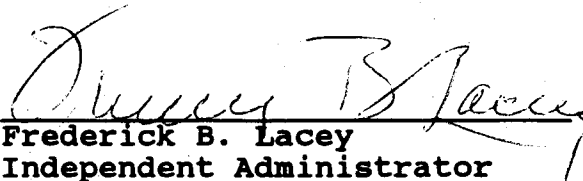
In addition, to the extent the IBT or any IBT-affiliated entity contemplates making the payment of any benefits to Adelstein which are under its exclusive control (such as bonuses and Local controlled severance plans), they are hereby directed not to make such payments.

Lastly, it is well-settled that Union officials charged with misconduct and found to have committed misconduct may not have their legal fees paid by their Union. See, e.g., United States v. Local 1804-1, et al., 732 F. Supp. 434, 437 (S.D.N.Y. 1990). Thus, no IBT-affiliated entity may make any contributions to Adelstein's attorneys fees in connection with these charges.

X. Application To Judge Edelstein

Given the extensive nature of Adelstein's involvement with the Gambino Family of La Cosa Nostra, it is in the best interest of the IBT that Adelstein immediately be purged from the Union. Accordingly, I will not voluntarily stay this decision. The penalties imposed herein shall take effect immediately.

Notwithstanding the fact that I have not stayed this decision or the penalties imposed, I will submit this Decision to the Honorable David N. Edelstein for his review and approval by way of Application in accordance with the procedure set forth in the Consent Order.


Frederick B. Lacey
Independent Administrator

Dated: September 14, 1992