

523

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	88 Civ. 4486 (LAP)
	:	
Plaintiff,	:	APPLICATION 89 OF THE
	:	INDEPENDENT REVIEW BOARD
v.	:	-- AGREEMENT BETWEEN THE
	:	INDEPENDENT REVIEW BOARD
INTERNATIONAL BROTHERHOOD	:	AND ALBERT MILLER
OF TEAMSTERS, <u>et al.</u>	:	
	:	
Defendant.	:	

Pursuant to Paragraph O. of the Rules and Procedures for Operation of the Independent Review Board ("IRB") for the International Brotherhood of Teamsters ("IRB Rules"), the IRB files this Application submitting the Compromise Agreement with Albert Miller ("Miller") member of Local Union 239 in East Meadow, New York. This Agreement was approved by the IRB and is submitted to Your Honor for review and, if appropriate, to be entered as an order. The Agreement seeks to resolve the charges recommended by the IRB. The Agreement, with a copy of the charges annexed thereto as Exhibit A, is enclosed, with a transmittal letter of the charges to Daniel J. Kane, Trustee of IBT Local Union 239.

This Application recognizes the importance of United States District Court Judge David N. Edelstein's February 2, 1994, Order in which he stated that all IRB Compromise Agreements shall "contain a paragraph informing signatories that the agreement will be reviewed and may be rejected." The Agreement reached between the IRB and Miller satisfies this procedure.

In compliance with Judge Edelstein's December 16, 1996, Order, one "backed" original and two copies of an Acknowledgment of Receipt are enclosed with this Application for execution by Your Honor. Miller was charged with bringing reproach upon the IBT and violating his oath of membership by engaging in a scheme to falsify union business records in violation of Article II, Section 2(a), and Article XIX, Sections 7(b)(1) and (2) of the IBT Constitution.

Effective the date the IRB approves the Agreement, November 13, 2000, Miller has agreed to resign permanently from the IBT.

Miller has further agreed not to:

- (1) accept any salary, severance payment, allowance, fee or compensation of any kind from Local 239 or any IBT entities, except that he may receive any fully vested pension benefits and fully vested welfare benefits;
- (2) accept benefits, gratuities, severance payment or gifts of any kind from Local 239 or IBT entities;
- (3) accept any contributions on his behalf to any pension, health and welfare, severance or other benefit fund;
- (4) participate in any manner in any of the activities or affairs of Local 239 or any other IBT entities, including, but not limited to, meetings, discussions, consultations, negotiations, votes or any other business or activity of Local 239 or IBT entities.

We have found the Agreement serves to resolve the charge in a fair and equitable manner.

Therefore, we respectfully request that Your Honor execute the Agreement on the line provided. This will, in effect, serve to have this Agreement "so ordered" by the Court. Thereafter, it is respectfully requested that a member of Your Honor's staff file the fully executed original Agreement with the Clerk and transmit to me a confirmed copy of the Agreement as "so ordered."

Dated: November 13, 2000

By:


Frederick B. Lacey
Member of the
Independent Review Board

AFFIDAVIT AND AGREEMENT

State of New York)
) ss:
City of New York)

ALBERT MILLER, being duly sworn, deposes and says, and agrees as follows:

1. On April 20, 2000, the Independent Review Board (“IRB”), 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”), recommended that charges be filed against me for bringing reproach upon the International Brotherhood of Teamsters (“IBT”) and violating my oath of membership by engaging in a scheme to falsify union business records in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(1) of the IBT Constitution. The IBT adopted and filed these charges on May 15, 2000.

2. I make this Affidavit and Agreement (the “Agreement”) to permanently resign my IBT membership in order to resolve the charges described in paragraph 1. This Agreement does not constitute an admission of the IBT or IRB charges or an admission of any wrongdoing by me of any kind whatsoever.

3. I represent and agree to the following:

(a) I was a member of the International Brotherhood of Teamsters (“IBT”) and a member of IBT Local 239;

(b) I currently hold no elected or appointed offices of any kind, paid or unpaid, in the IBT or any of its affiliated entities including any locals, superior bodies, conferences, councils, pension, health, welfare or severance plans or other such entities (collectively “IBT Entities”);

(c) I currently receive no salary, allowance, or remuneration of any kind from any IBT Entity.

4. I hereby permanently resign from the IBT and Local 239 effective upon the date this Agreement is approved by the Independent Review Board (“the Effective Date”). I agree never to hold membership in the IBT. From the effective date forward, I further agree not to hold any position with Local 239, any other employment, office, position or consulting or similar relationship, whether paid or unpaid, with Local 239 or any IBT Entities.

5. From the effective date of this Agreement forward, Local 239 and any other IBT Entities shall not and shall not become obligated to pay to me, nor shall I make a claim for or accept, any salary, severance payment, allowance, fee, or compensation of any kind, except that I may receive my fully vested pension benefits and fully vested welfare benefits.

6. I will receive no benefits, gratuities, severance payment or gifts of any kind whatsoever from Local 239 or IBT Entities. From the effective date of this Agreement forward, Local 239 or any other IBT Entities shall not and shall not become obligated to make, nor shall I make a claim for or accept, any contributions on my behalf to any pension, health and welfare, severance or other benefit fund. This Agreement, however, shall not constitute a bar to permitting me to elect or to accept otherwise available COBRA coverage.

7. Except as required by law and in my continuing capacity as an employer signatory to a valid collective bargaining agreement with Local 239, from the effective date of this Agreement forward, I shall not participate in any manner in any of the activities or affairs of Local 239 or any other IBT Entities, including, but not limited to, meetings, discussions,

consultations, negotiations, votes or any other business or activity of Local 239 or IBT Entities.

8. This Agreement is permanent.

9. I have entered this Agreement on the understanding that the IBT agrees that it will not proceed with the charges described in Paragraph 1 above.

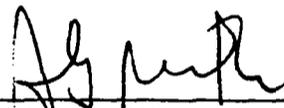
10. I understand that the IBT's agreement is limited to the recommended charges described in Paragraph 1 and it expressly reserves the right to pursue charges against any other officer, member, employee or entity of the IBT and Local Union 239 arising out of the allegations contained in the recommended charges described in Paragraph 1 or any other investigation.

11. I understand and agree that this Agreement will be submitted to the Independent Review Board ("IRB") for its review and, if approved by the IRB, it will be submitted to the United States District Court for the Southern District of New York for review. I understand that if this Agreement is approved by the United States District Court for the Southern District of New York, it will be entered as a Court Order. I understand that no representations have been made as to whether this Agreement will be approved by the IRB or the United States District Court for the Southern District of New York. If this Agreement is not approved by the United States District Court for the Southern District of New York, there will be no Agreement.

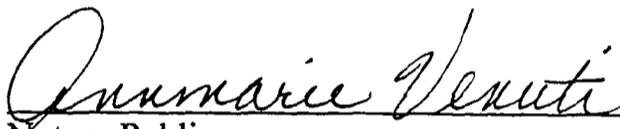
12. I make this Agreement freely, under no duress or coercion of any kind and after consultation with my attorney.

13. I have authorized my attorney to transmit this Agreement, signed by me, to the Independent Review Board. When it is signed by the Independent Review Board, it will be submitted to the Court for review.

Further Affiant sayeth not.

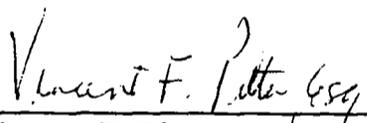

Albert Miller

Subscribed and sworn to before me by Albert Miller, this 18th day of October, 2000, to be his free act and deed.


Notary Public
My commission expires April 2001

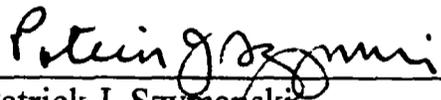
Herrick, Feinstein LLP
2 Park Avenue
New York, NY 10016

ANNMARIE VENUTI
Notary Public, State of New York
No. 41-4513080
Qualified in Nassau County
Commission Expires April 30, 2001

By: 
Vincent F. Pitta, Esquire
Counsel for Albert Miller

Date: October 18, 2000

International Brotherhood Of Teamsters
25 Louisiana Avenue, N.W.
Washington, D.C. 20001
(202) 624-6945

By: 
Patrick J. Szymanski
General Counsel

Date: 10-20-00

Rec'd 11/20/00
2.239 mille

Approved:

Dennis Blaney
for the Independent Review Board

Date: Nov. 13, 2000

So Ordered:
Hon. Loretta A. Preska

Loretta A. Preska
U.S. District Judge

Date: November 15, 2000