

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,	:	88 CIV. 4486 (DNE)
	:	
Plaintiff,	:	
	:	
v.	:	APPLICATION XLVII BY THE
	:	INDEPENDENT ADMINISTRATOR UNDER
	:	THE CONSENT ORDER DATED MARCH 14,
INTERNATIONAL BROTHERHOOD OF	:	1989 - AGREEMENT BETWEEN THE
TEAMSTERS, CHAUFFEURS, WARE-	:	INVESTIGATIONS OFFICER AND
HOUSEMEN AND HELPERS OF	:	EDWARD OSTROWSKI, FIORE PAPPA,
AMERICA, AFL-CIO, et al.	:	PETER SCARLATOS, ROBERT KELLY,
	:	HARRY NESPOLI, JOHN O'KEEFE AND
Defendants.	:	JAMES ALONGI

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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 Agreement entered into between the Court-appointed Investigations Officer, Charles M. Carberry, and the Officers of IBT Local Union 831 (sometimes hereinafter the "Respondents"). The Agreement seeks to resolve the two charges in the matter of Investigations Officer v. Officers of Local 831. Copies of the charges against the individual Respondents are annexed hereto as Exhibit A. Having reviewed the charges, and the July 11, 1991, Memorandum in Opposition to the charges filed by Respondents ("Respondents' Memorandum," a copy of which is annexed hereto as Exhibit B), I find that the Agreement resolves the two charges in a fair and equitable manner.

The Investigations Officer charged that Respondents in 1986 embezzled \$22,701 when they purchased rings for themselves, and such expense was recorded in the Local's books and records as

an administrative expense (Charge One). The Investigations Officer also charged Respondents with failing to cause Local 831 to adopt required by-laws (Charge Two).

Dealing first with Charge Two, as reflected in ¶7 of the Agreement, the Respondents have already filed with the IBT a set of by-laws to be approved for Local 831. Thus, the concern raised by Charge Two has been cured.

Regarding Charge One, as explained in Respondents' Memorandum, the recording of the ring purchases as an administrative expense was a bookkeeping error that was corrected upon its discovery by the Local's independent accountant. This correction was made "no later than April 1987." See Respondents' Memorandum at pp. 2-3. In fact, Respondents each declared \$3,100 of the total amount expended to purchase the rings as part of their annual bonus for 1986, and paid personal income tax on such amount. Id. at p. 3. In addition, in a letter dated April 8, 1987, signed by Ostrowski and Pappa, the Local's President and Secretary-Treasurer, and addressed to the Local's certified public accountant, it was noted:

[All compensation and bonuses were duly authorized and approved, including the fair value of property or their use [rings and autos] for the officers, trustees and employees of the Union.  
[Respondents' Memorandum at p. 5].

This 1987 letter supports Respondents' position that there was no intent by Respondents to conceal the purchase of the rings from the Local 831 membership.

Turning now to the specifics of the Agreement, Respondents agreed to pay \$22,701 to the Local. Agreement at ¶4. They have done so. Annexed hereto as Exhibit C is a copy of a July 15, 1991, letter from Alan K. Klinger, counsel for Respondents, to Ostrowski, confirming that Local 831 has been furnished with a check in the amount of \$22,701. A copy of the check from the Stroock & Stroock & Lavan escrow account made out to "Local 831, IBT" is also part of Exhibit C. The Respondents had deposited the funds in this escrow account pending resolution of the charges against them.

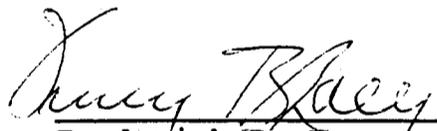
Respondents also agreed, with the exception of Ostrowski, to four-week suspensions without pay from their respective positions as officers, trustees and/or business agents of Local 831. Agreement at ¶5. The Respondents further agreed, again excepting Ostrowski, to have no contact with the Local during their respective periods of suspension. Moreover, as the Local 831 Executive Board can only act if a quorum of no less than four board members are present, and so as not to disrupt the conduct of the Local's business, Respondents' suspensions will occur on a rotating basis. The first group of Respondents (Pappa, Kelly and Alongi) will be suspended from July 15, 1991, through August 9, 1991; the second group (Scarlatos, Nespoli and O'Keefe) from August 9, 1991, to September 6, 1991. Agreement at ¶5. See also Exhibit D, a July 15, 1991, letter from Alan K. Klinger to the Investigations Officer confirming the order of suspensions.

Ostrowski will be suspended as the Local's President without pay from September 9, 1991, through October 4, 1991. Agreement at ¶6. Ostrowski may, during his suspension, participate in the contract negotiations or meetings concerning contract negotiations with the Local's sole employer, however, he may not be compensated for this work during his suspension. Agreement at ¶6.

The Local 831 Officers also agreed that, in the event that Your Honor or I do not approve the Agreement, the Investigations Officer may proceed with a hearing on the charges. Agreement at ¶11.

Having reviewed the Agreement and Respondents' Memorandum, and as noted, finding the Agreement just considering all of the surrounding circumstances, I have executed it on the line provided and, in so doing, have approved the Agreement.

Therefore, I respectfully request that Your Honor execute the original 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.

  
\_\_\_\_\_  
Frederick B. Lacey  
Independent Administrator

Dated: August 5, 1991

-----X  
 INVESTIGATIONS OFFICER, :  
                   Claimant, :  
           -against- :                   CHARGE  
 EDWARD OSTROWSKI, :  
 President, :  
 Local 831, :  
 New York, NY 10038, :  
                   Respondent. :  
 -----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 attached.

          The time and place for the hearing of this matter will be determined by the Independent Administrator, Frederick B. Lacey, and he will notify you accordingly.

Charge One

          You are charged with acting in a manner to bring reproach upon the IBT, violating your oath, embezzling money from Local 831 and converting it to your use and the use of others, in violation of Article II, § 2(a) and Article XIX,

§ 6(b)(1), (2) and (3) of the IBT Constitution. TO WIT, you and your fellow executive board members of Local 831 on or about May 27, 1986 spent \$22,701 of Local 831 money to purchase for each of you, 14 karat gold rings with one-half carat stones. This was recorded in the Local's books and records as an "administrative expense".

Charge Two

You are further charged with violating your oath and your duties to the members in violation of IBT Constitution Article XIX, § 6(b)(1) and (2). TO WIT, IBT Constitution, Art. XXII, § 1 provides that each local must adopt its own separate bylaws. You and the other members of the executive board have failed to cause Local 831 to adopt the required bylaws.

Dated: May 9, 1991  
New York, New York

Very truly yours,

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

Enclosure

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

1801H

-----X  
 INVESTIGATIONS OFFICER, :  
                   Claimant, :  
           -against- :                   CHARGE  
 FIORE PAPPA, :  
 Secretary-Treasurer, :  
 Local 831, :  
 New York, NY 10038, :  
                   Respondent. :  
 -----X

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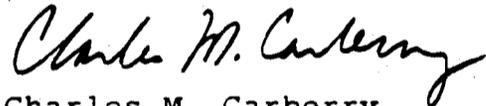
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Dated: May 9, 1991  
New York, New York

Very truly yours,



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

Enclosure

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

1799H

-----X  
 INVESTIGATIONS OFFICER, :  
                   Claimant, :  
       -against- :                    CHARGE  
 PETER SCARLATOS, :  
 Vice President, :  
 Local 831, :  
 New York, NY 10038, :  
                   Respondent. :  
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New York, New York

Very truly yours,



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

Enclosure

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

1800H

-----x  
INVESTIGATIONS OFFICER, :  
Claimant, :  
-against- : CHARGE  
ROBERT KELLY, :  
Recording Secretary, :  
Local 831, :  
New York, NY 10038, :  
Respondent. :  
-----x

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Dated: May 9, 1991  
New York, New York

Very truly yours,

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

Enclosure

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

1798H

-----x  
 INVESTIGATIONS OFFICER, :  
                   Claimant, :  
       -against- :                   CHARGE  
 HARRY NESPOLI, :  
 Trustee, :  
 Local 831, :  
 New York, NY 10038, :  
                   Respondent. :  
 -----x

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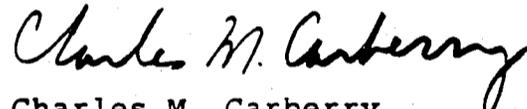
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New York, New York

Very truly yours,



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

Enclosure

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

1797H

-----X  
INVESTIGATIONS OFFICER, :  
Claimant, :  
-against- : CHARGE  
JOHN O'KEEFE, :  
Trustee, :  
Local 831, :  
New York, NY 10038, :  
Respondent. :  
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Dated: May 9, 1991  
New York, New York

Very truly yours,

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

Enclosure

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

1795H

-----X  
 INVESTIGATIONS OFFICER, :  
                   Claimant, :  
       -against- :                    CHARGE  
 JAMES ALONGI, :  
 Trustee, :  
 Local 831, :  
 New York, NY 10038, :  
                   Respondent. :  
 -----X

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

Enclosure

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

1790H

B





3. Currently, Edward Ostrowski is President; Fiore Pappa is Secretary-Treasurer; Peter Scarlatos is Vice President and Robert Kelly is Recording Secretary of Local 831. The Trustees are Harry Nespoli, John O'Keefe and James Alongi. Each of the foregoing is also a member of the International Brotherhood of Teamsters ("I.B.T.") and a member of I.B.T. Local 831.

4. Prior to his approval of this Agreement, Respondents will certify to the Independent Administrator that Respondents have paid \$22,701 to the Local.

5. Respondents also agree that each of them, except Ostrowski, will be suspended without pay for a period of four weeks from the positions of officers, trustees and/or business agents of Local 831. During that period, except for Ostrowski (see ¶6, infra), Respondents will have no contact with the Local. Because of the need for the Executive Board to have a quorum of four, suspensions will be done on a rotating basis. Three Respondents will be suspended from July 15 through August 9 and three others from August 9 through September 6. Respondents will notify the Investigations Officer at the beginning and end of each period for each Respondent.

6. Ostrowski will be suspended as the President of the Local without pay from September 9 through October 4. Because the Local is and has been negotiating a new contract with its sole employer, he may participate without compensation in any

contract negotiations or meetings concerning contract negotiations during that time.

7. On May 28, 1991 the Respondents filed with the IBT a set of bylaws to be approved for Local 831.

8. We have entered into this Agreement on the understanding that the Investigations Officer will not pursue the attached charges against us.

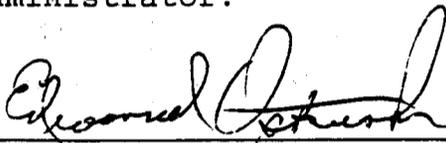
9. We understand that the Investigations Officer's agreement is limited to the charges attached and that he expressly reserves the right to pursue charges against any other officer or entity of the IBT or Local 831, arising out of the allegations contained in the charges or any other investigations.

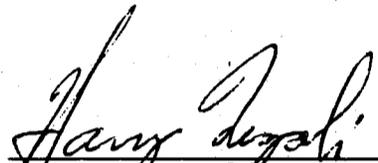
10. We agree that this Agreement will be submitted to the Independent Administrator for his review and approval. If approved by the Independent Administrator, we understand he will submit it to the district court for that court to enter it as an order.

11. The Investigations Officer makes no representation as to any action that may be taken by the Independent Administrator or the court with respect to this Agreement. In the event that either the court or the Independent Administrator does not approve this Agreement, we may individually elect to proceed with a hearing on the charges.

12. We make this agreement freely, under no duress or coercion of any kind, and after consultation with our attorney.

13. This Agreement is not effective until it has been signed below by the Investigations Officer and the Independent Administrator.

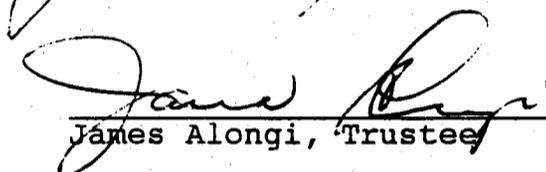
  
Edward Ostrowski, President

  
Harry Nespoli, Trustee

  
Fiore Pappa, Secretary-Treasurer

  
John O'Keefe, Trustee

  
Robert Kelly, Recording Secretary

  
James Alongi, Trustee

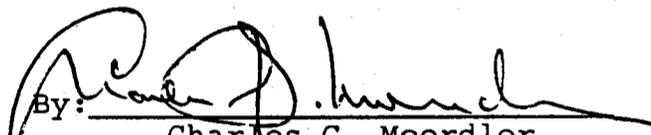
  
Peter Scarlatos, Vice President

Sworn to before me this  
15<sup>th</sup> day of July, 1991.

  
Notary Public

JOAN DIMINO  
NOTARY PUBLIC, State of New York  
No. 24-4877240  
Qualified in Kings County  
Commission Expires November 17, 1992

STROOCK & STROOCK & LAVAN

By:   
Charles G. Moerdler  
Counsel for Respondents

Agreed: James M. Embury  
Investigations Officer

Dated: 7/15/91

Agreed: Henry Tracy  
Independent Administrator

Dated: 7/5/91

SO ORDERED: \_\_\_\_\_  
Hon. David N. Edelstein  
U.S. District Judge

Dated: \_\_\_\_\_