

was based upon a number of evidentiary sources, including electronic intercepts, videotapes, public and other published reports, statements of IBT members, and admissions of Cozza and his son.

The Independent Administrator's Supplemental Opinion in which he declines to disturb the findings in his January 4, 1991 Opinion, is well grounded in the evidence, and is neither arbitrary nor capricious. Accordingly, the Supplemental Opinion of the Independent Administrator is affirmed in all respects.

### III. CONCLUSION

IT IS HEREBY ORDERED that Cozza's objections to the Independent Administrator's Supplemental Opinion are denied.

IT IS FURTHER ORDERED that the Supplemental Opinion of the Independent Administrator is affirmed in all respects.

SO ORDERED.



UNITED STATES of America, Plaintiff,

v.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL-CIO, et al., Defendants.

In re APPLICATION XXXVIII OF the INDEPENDENT ADMINISTRATOR.

No. 88 CIV. 4486 (DNE).

United States District Court,  
S.D. New York.

Oct. 16, 1991.

Union member appealed from opinion of independent administrator finding that investigations officer had proved charge filed against member, who had allegedly associated with member of criminal orga-

nization in violation of union constitution. The District Court, Edelstein, J., held that: (1) hearsay statements of Federal Bureau of Investigation (FBI) agent and members of criminal organization were reliable, as they corroborated one another and, accordingly, statements were properly considered in disciplinary proceedings; (2) charge listing specific member of criminal organization with whom union member supposedly associated and association's time frame was sufficiently specific; and (3) court would not substitute its assessment of union member's credibility for that of independent administrator.

Affirmed.

#### 1. Labor Relations ⇄113

District court will overturn findings of independent administrator appointed to oversee remedial provisions of consent decree in action against union influenced by organized crime when court determines that findings are, on basis of all evidence, arbitrary or capricious.

#### 2. Labor Relations ⇄112

Hearsay statements of Federal Bureau of Investigation (FBI) agent and members of criminal organization were reliable, as they corroborated one another and, accordingly, statements were properly considered by court-appointed independent administrator in disciplinary proceedings against union member.

#### 3. Labor Relations ⇄112

Hearsay evidence, if reliable, is admissible in discipline proceedings before independent administrator appointed by court to oversee remedial provisions of consent decree in connection with action against union influenced by organized crime.

#### 4. Labor Relations ⇄110

Charge against union member listing specific member of criminal organization with whom union member supposedly associated and association's time frame was sufficiently specific; association allegedly violated union constitution.

## 5. Labor Relations ⇐113

District court would not substitute its assessment of union member's credibility for that of independent administrator appointed to oversee remedial provisions of consent decree designed to rid union of influence of organized crime, so as to credit member's testimony in disciplinary proceedings denying any involvement with organized crime; independent administrator credited signed statement of Federal Bureau of Investigation (FBI) agent, which was corroborated by associates of member of criminal organization with whom union member had allegedly associated.

Charles M. Carberry, Investigations Officer of Intern. Broth. of Teamsters.

Otto G. Obermaier, U.S. Atty., S.D.N.Y. (Edward T. Ferguson, III, Asst. U.S. Atty., of counsel), New York City, for U.S.

Roy Barnes, P.C., Wendell Shepherd, New York City (Climaco, Climaco, Seminatore, Lefkowitz & Garofoli Co., John R. Climaco, Paul S. Lefkowitz, Cleveland, Ohio, of counsel), for Joseph Cimino.

## MEMORANDUM AND ORDER

EDELSTEIN, District Judge:

This opinion emanates from the voluntary settlement in the action commenced by the plaintiffs United States of America (the "Government") against the defendants International Brotherhood of Teamsters (the "IBT") and the IBT's General Executive Board (the "GEB") embodied in the voluntary consent order entered March 14, 1989 (the "Consent Decree"). The Consent Decree provided for three Court-appointed officials, the Independent Administrator to oversee the remedial provisions, the Investigations Officer to bring charges against corrupt IBT members, and the Election Officer to oversee the electoral process leading up to and including the 1991 election for International Officers (collectively, the "Court Officers"). The goal of the Consent Decree is to rid the IBT of the hideous

1. Paragraph F.12(C) of the Consent Decree mandates that the Independent Administrator must

influence of organized crime through the election and prosecution provisions.

Application XXXVIII presents for this Court's review the opinion of the Independent Administrator finding that the Investigations Officer proved one charge filed against IBT member Joseph Cimino, the President and Business Agent of IBT Local Union 107, located in Philadelphia, Pennsylvania.

## I. BACKGROUND

The Investigations Officer alleges that Cimino violated Article II, § 2(a) and Article XIX, section 6(b) of the IBT Constitution by knowingly associating with Nicodemo Scarfo, a member of La Cosa Nostra. Section 2(a) is the IBT membership oath, which provides in relevant part that every IBT member shall "conduct himself or herself in a manner so as not to bring reproach upon the Union." Section 6(b) is a non-exhaustive list of the "bases of charges against members, officers, elected Business Agents, Local Unions, Joint Councils or other subordinate entities for which he or it shall stand trial..." Violating the IBT oath is one such charge.

The Independent Administrator found that the Investigations Officer had sustained his burden of proving that Cimino "knowingly associated" with Scarfo and demonstrated "just cause"<sup>1</sup> that the charge had been proved. As a penalty for the Charge, the Independent Administrator found that Cimino should be permanently banished from the IBT, stating that "Cimino discussed union business with members of Organized Crime, hired employees at the behest of Scarfo, made political contributions to a candidate preferred by the Philadelphia Family and was generally counted upon by Scarfo ... to perform favors. Such conduct flies in the face of the Consent Order's goals." Ind.Admin.Dec. at 12. Furthermore, the Independent Administrator directed that no further contributions from the IBT or any IBT-affiliated entity be made on Cimino's behalf to any employee Health, Pension and Welfare plans. The

decide disciplinary hearings using a "just cause" standard.

Independent Administrator, however, permitted Cimino to collect any contributions to or benefits from these funds through the pay period that ended July 31, 1991. In addition, the Independent Administrator directed that no IBT-affiliated entity make any contributions to Cimino's legal expenses in connection with the matter. Finally, the Independent Administrator stripped Cimino of his status of a delegate to the IBT Convention, held in June 1991, and prohibited him from attending the Convention in any capacity.

Cimino appeals to this Court the opinion of the Independent Administrator. This Court finds that the opinion of the Independent Administrator is fully supported by the evidence, and that Cimino's arguments are completely without merit. Accordingly, the opinion of the Independent Administrator is affirmed in all respects.

## II. DISCUSSION

[1] It is well settled that the findings of the Independent Administrator "are entitled to great deference." *United States v. Int'l Brotherhood of Teamsters*, 905 F.2d 610, 616 (2d Cir.1990), *aff'd* March 13, 1990 Opinion & Order, 743 F.Supp. 155 (S.D.N.Y.1990). This Court will overturn findings when it determines that they are, on the basis of all the evidence, "arbitrary or capricious." *United States v. Int'l Brotherhood of Teamsters, supra*, 905 F.2d at 622; October 11, 1991 Memorandum & Order, 777 F.Supp. 1127, 1128 (S.D.N.Y.1991); October 9, 1991 Memorandum & Order, 777 F.Supp. 1123, 1125 (S.D.N.Y.1991); August 14, 1991 Memorandum & Order, *slip opinion*, at 4, 1991 WL 161084 (S.D.N.Y.1991); July 31, 1991 Memorandum & Order, *slip opinion* at 3-4, 1991 WL 150226 (S.D.N.Y.1991); July 18, 1991 Memorandum & Order, *slip opinion* at 3-4 (S.D.N.Y.1991); July 16, 1991 Opinion & Order, *slip opinion*, at 3-4, 1991 WL 136029 (S.D.N.Y.1991); June 6, 1991 Opinion & Order, 775 F.Supp. 90, 93 (S.D.N.Y.1991); May 13, 1991 Memorandum & Order, 764 F.Supp. 817, 820-21 (S.D.N.Y.1991); May 9, 1991 Memorandum & Order, 764 F.Supp. 797, 800 (S.D.N.Y.1991); May 6, 1991 Opinion & Or-

der, 764 F.Supp. 787, 789 (S.D.N.Y.1991); December 27, 1990 Opinion & Order, 754 F.Supp. 333, 337 (S.D.N.Y.1990); September 18, 1990 Opinion & Order, 745 F.Supp. 189, 191-92 (S.D.N.Y.1990); August 27, 1990 Opinion & Order, 745 F.Supp. 908, 911 (S.D.N.Y.1990); March 13, 1990 Opinion & Order, *supra*, 743 F.Supp. at 159-60, *aff'd*, 905 F.2d at 622; January 17, 1990 Opinion & Order, 728 F.Supp. 1032, 1045-57, *aff'd*, 907 F.2d 277 (2d Cir.1990); November 2, 1989 Memorandum & Order, 725 F.Supp. 162, 169 (S.D.N.Y.1989).

Cimino, a member and officer of the IBT, contends that he is not bound by the disciplinary provisions of the Consent Decree because: (1) the Consent Decree unlawfully amended the IBT constitution; (2) Local 107 is not a signatory to the decree; and (3) the consent order is not binding on affiliates. The decisions of the Court of Appeals and this Court have conclusively established that the Consent Decree validly amended the IBT constitution and that all members of the IBT are bound by the Consent Decree's disciplinary provisions. May 6, 1991 Opinion & Order, 764 F.Supp. at 790 (S.D.N.Y.1991), *affirmed without opinion*, 940 F.2d 648 (2d Cir.1991); *United States v. IBT*, 931 F.2d 177, 184 (2d Cir.1991); *United States v. IBT*, 905 F.2d 610, 622 (2d Cir.1990), *aff'd*, March 13, 1990 Opinion & Order, 743 F.Supp. at 159-60 and November 2, 1989 Memorandum & Order, 725 F.Supp. at 169; December 27, 1990 Opinion & Order, 754 F.Supp. at 337; September 18, 1990 Opinion & Order, 745 F.Supp. at 191-92 (S.D.N.Y.1990); August 27, 1990 Opinion & Order, 745 F.Supp. at 911; January 17, 1990 Opinion & Order, 728 F.Supp. 1032, 1045-57, *aff'd*, 907 F.2d 277 (2d Cir.1990); *Joint Council 73, et al. v. IBT, et al.*, 741 F.Supp. 491, 493 (S.D.N.Y.1990).

[2, 3] Cimino next argues that the Independent Administrator's decision and the Investigation Officer's case rested primarily upon hearsay evidence; Cimino alleges that it is not proper to consider hearsay evidence in disciplinary proceedings. The Independent Administrator's decision does consider hearsay statements made by FBI agent Maher and three members of La

*Cosa Nostra*, Leonetti, Merlino and Caramandi. Ind. Admin. Dec. at 5. Nevertheless, it is beyond reasonable dispute that hearsay evidence, if reliable, is admissible in IBT disciplinary proceedings. See *United States v. IBT*, 745 F.Supp. 908, 914-15 (S.D.N.Y.1990), *aff'd*, 941 F.2d 1292, 1297 (2d Cir.1991). The Independent Administrator carefully considered the hearsay statements in the instant case and found them reliable because they corroborated one another. An examination of the hearsay statements supports this finding. Accordingly, this Court rejects Cimino's argument.

[4] Cimino also contends that the Investigation Officer's charge was not sufficiently specific. Cimino asserts that because the charge indicated that he "knowingly associated" with Scarfo, the Investigations Officer should be precluded from introducing evidence suggesting or inferring an association with other organized crime figures. This argument has been considered and rejected in several of this Court's decisions. See May 9, 1991 Memorandum & Order, 764 F.Supp. 797, 800 (S.D.N.Y.1991); August 27, 1990 Memorandum & Order, 745 F.Supp. 908 (S.D.N.Y.1990); September 18, 1990 Memorandum & Order, 745 F.Supp. 189 (S.D.N.Y.1990). The charge against Cimino is virtually identical to the charges upheld in these decisions. In the instant case, the charge lists the individual with whom Cimino supposedly associated and the association's time frame. Ind. Admin. Dec. at 1. The charge against Cimino "was a plain, concise statement of the facts constituting the offense charged." May 9, 1991 Memorandum & Order, 764 F.Supp. at 800. The charge is sufficiently specific. Cimino's argument is rejected.

[5] Finally, Cimino contends that the testimony he gave in his own behalf at the disciplinary hearing denying any involvement with Organized Crime should be given such deference that a reasonable inference may be drawn that the Investigations Officer failed to prove the charge against him. By making such an argument, Cimino asks this Court to substitute its assessment of Cimino's credibility for that of the Independent Administrator, who was

present during Cimino's testimony and thus in the best position to judge credibility. The Independent Administrator did not find Cimino a credible witness. See Ind. Admin. Dec. at 11. Instead, the Independent Administrator credited the signed statement of FBI agent Maher, which is corroborated by three of Scarfo's closest associates. Cimino's argument is baseless.

The Independent Administrator's decision was supported by ample evidence and was neither arbitrary nor capricious. Cimino's arguments are wholly without merit. Accordingly, the decision of the Independent Administrator is affirmed in all respects.

### III. CONCLUSION

IT IS HEREBY ORDERED that Cimino's objections to the Independent Administrator's opinion are denied.

IT IS FURTHER ORDERED that the opinion of the Independent Administrator is affirmed in all respects.

IT IS HEREBY ORDERED that the stay of penalties imposed on Cimino by the Independent Administrator is dissolved, effective immediately.

SO ORDERED.



UNITED STATES of America, Plaintiff,

v.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA, AFL-CIO, et al., Defendants.

In re APPLICATION XLV OF the INDEPENDENT ADMINISTRATOR.

No. 88 CIV. 4486 (DNE).

United States District Court,  
S.D. New York.

Oct. 24, 1991.

Union official brought application seeking review of opinion of court-appointed

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
-----X

UNITED STATES OF AMERICA, :  
 :  
 Plaintiff, :

-v- :

MEMORANDUM & ORDER

INTERNATIONAL BROTHERHOOD OF :  
 TEAMSTERS, CHAUFFEURS, :  
 WAREHOUSEMEN AND HELPERS OF :  
 AMERICA, AFL-CIO, et al., :  
 :  
 Defendants. :

88 CIV. 4486 (DNE)

-----X  
IN RE: APPLICATION XXXVIII OF THE  
INDEPENDENT ADMINISTRATOR  
-----X

APPEARANCES: CHARLES M. CARBERRY, Investigations Officers of the  
International Brotherhood of Teamsters;

OTTO G. OBERMAIER, United States Attorney for the  
Southern District of New York, (Edward T. Ferguson,  
III, Assistant United States Attorney, of counsel)  
for the United States;

ROY BARNES, P.C., New York, New York, Wendell  
Shepherd (CLIMACO, CLIMACO, SEMINATORE, LEFKOWITZ  
& GAROFOLI CO., Cleveland, Ohio, John R. Climaco,  
Paul S. Lefkowitz) of counsel, for Joseph Cimino.

EDELSTEIN, District Judge:

This opinion emanates from the voluntary settlement in the  
action commenced by the plaintiffs United States of America (the  
"Government") against the defendants International Brotherhood of  
Teamsters (the "IBT") and the IBT's General Executive Board (the  
"GEB") embodied in the voluntary consent order entered March 14,  
1989 (the "Consent Decree"). The Consent Decree provided for three  
Court-appointed officials, the Independent Administrator to oversee  
the remedial provisions, the Investigations Officer to bring

charges against corrupt IBT members, and the Election Officer to oversee the electoral process leading up to and including the 1991 election for International Officers (collectively, the "Court Officers"). The goal of the Consent Decree is to rid the IBT of the hideous influence of organized crime through the election and prosecution provisions.

Application XXXVIII presents for this Court's review the opinion of the Independent Administrator finding that the Investigations Officer proved one charge filed against IBT member Joseph Cimino, the President and Business Agent of IBT Local Union 107, located in Philadelphia, Pennsylvania.

#### I. BACKGROUND

The Investigations Officer alleges that Cimino violated Article II, §2(a) and Article XIX, section 6(b) of the IBT Constitution by knowingly associating with Nicodemo Scarfo, a member of La Cosa Nostra. Section 2(a) is the IBT membership oath, which provides in relevant part that every IBT member shall "conduct himself or herself in a manner so as not to bring reproach upon the Union." Section 6(b) is a non-exhaustive list of the "bases of charges against members, officers, elected Business Agents, Local Unions, Joint Councils or other subordinate entities for which he or it shall stand trial . . . ." Violating the IBT oath is one such charge.

The Independent Administrator found that the Investigations Officer had sustained his burden of proving that Cimino "knowingly

associated" with Scarfo and demonstrated "just cause"<sup>1</sup> that the charge had been proved. As a penalty for the Charge, the Independent Administrator found that Cimino should be permanently banished from the IBT, stating that "Cimino discussed union business with members of Organized Crime, hired employees at the behest of Scarfo, made political contributions to a candidate preferred by the Philadelphia Family and was generally counted upon by Scarfo . . . to perform favors. Such conduct flies in the face of the Consent Order's goals." Ind. Admin. Dec. at 12. Furthermore, the Independent Administrator directed that no further contributions from the IBT or any IBT-affiliated entity be made on Cimino's behalf to any employee Health, Pension and Welfare plans. The Independent Administrator, however, permitted Cimino to collect any contributions to or benefits from these funds through the pay period that ended July 31, 1991. In addition, the Independent Administrator directed that no IBT-affiliated entity make any contributions to Cimino's legal expenses in connection with the matter. Finally, the Independent Administrator stripped Cimino of his status of a delegate to the IBT Convention, held in June 1991, and prohibited him from attending the Convention in any capacity.

Cimino appeals to this Court the opinion of the Independent Administrator. This Court finds that the opinion of the Independent Administrator is fully supported by the evidence, and that Cimino's arguments are completely without merit. Accordingly,

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<sup>1</sup> Paragraph F.12(C) of the Consent Decree mandates that the Independent Administrator must decide disciplinary hearings using a "just cause" standard.

the opinion of the Independent Administrator is affirmed in all respects.

## II. DISCUSSION

It is well settled that the findings of the Independent Administrator "are entitled to great deference." United States v. Int'l Brotherhood of Teamsters, 905 F.2d 610, 616 (2d Cir. 1990), aff'g March 13, 1990 Opinion & Order, 743 F. Supp. 155 (S.D.N.Y. 1990). This Court will overturn findings when it determines that they are, on the basis of all the evidence, "arbitrary or capricious." United States v. Int'l Brotherhood of Teamsters, supra, 905 F.2d at 622; October 11, 1991 Memorandum & Order, slip opinion, at 3 (S.D.N.Y. 1991); October 9, 1991 Memorandum & Order, slip opinion, at 5 (S.D.N.Y. 1991); August 14, 1991 Memorandum & Order, slip opinion, at 4 (S.D.N.Y. 1991); July 31, 1991 Memorandum & Order, slip opinion at 3-4 (S.D.N.Y. 1991); July 18, 1991 Memorandum & Order, slip opinion at 3-4 (S.D.N.Y. 1991); July 16, 1991 Opinion & Order, slip opinion, at 3-4 (S.D.N.Y. 1991); June 6, 1991 Opinion & Order, slip opinion, at 4-5 (S.D.N.Y. 1991); May 13, 1991 Memorandum & Order, 764 F. Supp. 817, 820-21 (S.D.N.Y. 1991); May 9, 1991 Memorandum & Order, 764 F. Supp. 797, 800 (S.D.N.Y. 1991); May 6, 1991 Opinion & Order, 764 F. Supp. 787, 789 (S.D.N.Y. 1991); December 27, 1990 Opinion & Order, 754 F. Supp. 333, 337 (S.D.N.Y. 1990); September 18, 1990 Opinion & Order, 745 F. Supp. 189, 191-92 (S.D.N.Y. 1990); August 27, 1990 Opinion & Order, 745 F. Supp. 908, 911 (S.D.N.Y. 1990); March 13, 1990

Opinion & Order, supra, 743 F. Supp. at 159-60, aff'd, 905 F.2d at 622; January 17, 1990 Opinion & Order, 728 F. Supp. 1032, 1045-57, aff'd, 907 F.2d 277 (2d Cir. 1990); November 2, 1989 Memorandum & Order, 725 F.2d 162, 169 (S.D.N.Y. 1989).

Cimino, a member and officer of the IBT, contends that he is not bound by the disciplinary provisions of the Consent Decree because: (1) the Consent Decree unlawfully amended the IBT constitution; (2) Local 107 is not a signatory to the decree; and (3) the consent order is not binding on affiliates. The decisions of the Court of Appeals and this Court have conclusively established that the Consent Decree validly amended the IBT constitution and that all members of the IBT are bound by the Consent Decree's disciplinary provisions. May 6, 1991 Opinion & Order, slip opinion, at 6 (S.D.N.Y. 1991), affirmed without opinion, No. 91-6130 (2d Cir. June 6, 1991); United States v. IBT, No. 90-6216, 6228, 6234, 6244, 6246, 6248, 6252, 6254, slip op. at 3601, 3617 (2d Cir. April 12, 1991); United States v. IBT, 905 F.2d 610, 622 (2d Cir. 1990), aff'g, March 13, 1990 Opinion & Order, 743 F. Supp. at 159-60 and November 2, 1989 Memorandum & Order, 725 F.2d at 169; December 27, 1990 Opinion & Order, 754 F. Supp. at 337; September 18, 1990 Opinion & Order, 745 F. Supp. at 191-92 (S.D.N.Y. 1990); August 27, 1990 Opinion & Order, 745 F. Supp. at 911; January 17, 1990 Opinion & Order, 728 F. Supp. 1032, 1045-57, aff'd, 907 F.2d 277 (2d Cir. 1990); Joint Council 73 et al. v. IBT, et al., 741 F. Supp. 491, 493 (S.D.N.Y. 1990).

Cimino next argues that the Independent Administrator's

decision and the Investigation Officer's case rested primarily upon hearsay evidence; Cimino alleges that it is not proper to consider hearsay evidence in disciplinary proceedings. The Independent Administrator's decision does consider hearsay statements made by FBI agent Maher and three members of La Cosa Nostra, Leonetti, Merlino and Caramandi. Ind. Admin. Dec. at 5. Nevertheless, it is beyond reasonable dispute that hearsay evidence, if reliable, is admissible in IBT disciplinary proceedings. See United States v. IBT, 745 F. Supp. 908, 914-15 (S.D.N.Y. 1990), aff'd, No. 91-6052 slip opinion, at 6780 (2d Cir. August 6, 1991). The Independent Administrator carefully considered the hearsay statements in the instant case and found them reliable because they corroborated one another. An examination of the hearsay statements supports this finding. Accordingly, this Court rejects Cimino's argument.

Cimino also contends that the Investigation Officer's charge was not sufficiently specific. Cimino asserts that because the charge indicated that he "knowingly associated" with Scarfo, the Investigations Officer should be precluded from introducing evidence suggesting or inferring an association with other organized crime figures. This argument has been considered and rejected in several of this Court's decisions. See May 9, 1991 Memorandum & Order, 764 F. Supp. 797, 800 (S.D.N.Y. 1991); August 27, 1990 Memorandum & Order, 745 F. Supp. 908 (S.D.N.Y. 1990); September 18, 1990 Memorandum & Order, 745 F. Supp. 189 (S.D.N.Y. 1990). The charge against Cimino is virtually identical to the

charges upheld in these decisions. In the instant case, the charge lists the individual with whom Cimino supposedly associated and the association's time frame. Ind. Admin. Dec. at 1. The charge against Cimino "was a plain, concise statement of the facts constituting the offense charged." May 9, 1991 Memorandum & Order, 764 F. Supp. at 800. The charge is sufficiently specific. Cimino's argument is rejected.

Finally, Cimino contends that the testimony he gave in his own behalf at the disciplinary hearing denying any involvement with Organized Crime should be given such deference that a reasonable inference may be drawn that the Investigations Officer failed to prove the charge against him. By making such an argument, Cimino asks this Court to substitute its assessment of Cimino's credibility for that of the Independent Administrator, who was present during Cimino's testimony and thus in the best position to judge credibility. The Independent Administrator did not find Cimino a credible witness. See Ind. Admin. Dec. at 11. Instead, the Independent Administrator credited the signed statement of FBI agent Maher, which is corroborated by three of Scarfo's closest associates. Cimino's argument is baseless.

The Independent Administrator's decision was supported by ample evidence and was neither arbitrary nor capricious. Cimino's arguments are wholly without merit. Accordingly, the decision of the Independent Administrator is affirmed in all respects.

### III. CONCLUSION

IT IS HEREBY ORDERED that Cimino's objections to the Independent Administrator's opinion are denied.

IT IS FURTHER ORDERED that the opinion of the Independent Administrator is affirmed in all respects.

IT IS HEREBY ORDERED that the stay of penalties imposed on Cimino by the Independent Administrator is dissolved, effective immediately.

SO ORDERED.

Dated: October 16, 1991  
New York, New York

  
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U.S.D.J.