

641 headquarters), I sent Reynolds a "Notice of Hearing," notifying him of the January 16, 1991, hearing. Subsequently, I received a letter dated November 21, 1990, from Albert G. Kroll (counsel for the other Local 641 respondents, but not Reynolds) advising me that Reynolds had not been employed by Local 641 since approximately August, 1990, and providing me with Reynolds' last home address. By letter dated November 27, 1990 (sent via certified and regular mail), I forwarded the Notice of Hearing on the charges against Reynolds to the address provided by Mr. Kroll. I received notification from the post office that a Mary Ann Reynolds signed for that letter on November 30, 1990.

In addition, at the hearing, the Investigations Officer stated that his office had sent the Reynolds charges to the offices of Local 641 and that Local 641's counsel, Mr. Kroll, had forwarded the charges to Reynolds at his home address. T26-1 to 7.² Thereafter, the Investigations Officer communicated with Reynolds by overnight mail at his home address. The Investigations Officer's last communication to Reynolds, before the hearing, was on January 14, 1991, at which time the Investigations Officer sent him, by overnight mail, a copy of the exhibits to be used at the hearing. The Investigations Officer stated that he has every reason to believe that Reynolds received the package. T26-8 to 18.

² Unless otherwise indicated, transcript references are to the January 16, 1991, proceedings. The first reference, in this case "T26," refers to the page number (p. 26). The second reference, in this case "1 to 7," refers to the line numbers (line 1 to line 7).

Despite the numerous notices sent to Reynolds by the Investigations Officer and me, neither Reynolds nor counsel on his behalf responded in any manner to the charges brought against him by the Investigations Officer. Finding that Reynolds willfully failed to appear at the hearing on those charges, I accept and will consider the evidence submitted against him by the Investigations Officer.

I. The Charges

A. Charge One

The Investigations Officer charges that Reynolds has violated Article II, Section 2(a)³ of the IBT Constitution:

[B]y conducting [himself] in a manner to bring reproach upon the IBT, while an employee of Locals 560 and 641 to wit: by knowingly associating with members of La Cosa Nostra, from at least January 1, 1980 to the present, including Matthew Ianniello, Bobby Manna and Anthony Provenzano.

³ Article II, Section 2 (a) provides:

Any person shall be eligible to membership in this organization upon compliance with the requirements of this Constitution and the rulings of the General Executive Board. Each person upon becoming a member thereby pledges his honor: to faithfully observe the Constitution and laws of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and the Bylaws and laws of his Local Union; to comply with all rules and regulations for the government of the International Union and his Local Union; to faithfully perform all the duties assigned to him to the best of his ability and skill; to conduct himself or herself at all times in such a manner as not to bring reproach upon the Union [Emphasis supplied].

B. Charge Two

The Investigations Officer also charges that Reynolds has violated Article II, section 2(a) and Article XIX, Section 6(b)⁴ of the IBT Constitution:

⁴ Article XIX, Section 6(b) provides:

The basis for charges against members, officers, elected Business Agents, Local Unions, Joint Councils or other subordinate bodies for which he or it shall stand trial shall consist of, but not be limited to, the following:

- (1). Violation of any specific provision of the Constitution, Local Union Bylaws 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 the International Union.
- (3). Embezzlement or conversion of union's funds or property.
- (4). Secession, or fostering the same.
- (5). Conduct which is disruptive of, interferes with, or induces others to disrupt or interfere with, the performance of any union's legal or contractual obligations. Causing or participating in an unauthorized strike or work stoppage.
- (6). Disruption of Union meetings, or assaulting or provoking assault on fellow members or officers, or failure to follow the rules of order or rulings of the presiding officer at meetings of the Local Union, or any similar conduct in, or about union premises or places used to conduct union business.
- (7). Crossing an authorized primary picket line established by the member's Local Union or any other subordinate body affiliated with the International Union.

[B]y conducting [himself] in a manner to bring reproach upon the IBT, violating [his] IBT oath; and violating the AFL-CIO Code of Ethical Practices, to wit: when deposed in United States v. Local 560, CIV. NO. 82-689 (H.A.A.) (D.N.I.) on August 17, 1982, [he] refused to answer questions relating to kickbacks from employees, embezzlement of union funds, the business of Local 84 and the business of Local 560 and other matters.

II. The Investigations Officer's Case -- The Lenehan Affidavit

The Investigations Officer's primary evidence offered to prove both the "knowing association" and the "refusal to testify" charge was the Affidavit of Federal Bureau of Investigation ("FBI") Special Agent Robert J. Lenehan ("Lenehan") along with numerous attached exhibits. Investigations Officer's Ex. 1 ("Lenehan Affidavit"). At the hearing, the Lenehan Affidavit was supplemented by Lenehan's testimony on direct examination by the Investigations Officer.

Lenehan has been a special agent with the FBI for over seventeen years. Lenehan Affidavit at ¶1. For over sixteen years of his career as a Special Agent, he has been assigned to conduct investigations regarding organized crime activities or supervise other Special Agents conducting such investigations. Ibid. Since 1984, he has been assigned as the Supervisory Special Agent in charge of an organized crime squad in the FBI's Newark office where he primarily conducts investigations regarding the criminal activities of members and associates of the DeCavalcante, Colombo and Genovese families of La Cosa Nostra in the State of New Jersey.

Id. at ¶2. In his work at the FBI's Newark office, Lenehan has been involved in numerous criminal investigations concerning the illegal activities of members and associates of the La Cosa Nostra families operating in the State of New Jersey. Ibid. Through this experience, Lenehan is familiar with FBI investigations involving La Cosa Nostra and intelligence information gathered by the FBI regarding La Cosa Nostra activity. Id. at ¶5. Lenehan is also thoroughly experienced in the various investigative techniques used by the FBI in investigating organized crime. Ibid. During his sixteen years of investigating organized crime, Lenehan has interviewed, met, observed and arrested numerous members and associates of La Cosa Nostra. Ibid. Since 1987, Lenehan has been the Coordinator of the Organized Crime Program in the Newark Division of the FBI. Id. at ¶7.

Given Lenehan's extensive background and experience, I accept him as an expert knowledgeable in the investigation and structure of organized crime in the New Jersey area.

III. The Knowing Association Charge

A. The Organized Crime Connections of Reynolds' Alleged Associates

The Investigations Officer alleges that Reynolds has associated with members of "La Cosa Nostra . . . including Matthew Ianniello, Bobby Manna and Anthony Provenzano."

Through the Lenehan affidavit, evidence was introduced which supports the conclusion that Matthew Ianniello, Bobby Manna,

Anthony Provenzano and Nunzio Provenzano⁵ (the brother of Anthony Provenzano) are, or were, members of the Genovese crime family. First, in his affidavit, Lenehan identified Matthew Ianniello, Bobby Manna, Anthony Provenzano⁶ and Nunzio Provenzano as members of the Genovese Family of La Cosa Nostra. Lenehan Affidavit at ¶¶ 25, 26, 28 and 29. See also T20-19 to T21-2.

Lenehan's identifications are well supported elsewhere in the record. For instance, Matthew Ianniello, Bobby Manna, Anthony Provenzano and Nunzio Provenzano were all identified as members of the Genovese Family before the Permanent Subcommittee on Investigations of the United States Senate during hearings entitled "Organized Crime: 25 years after Valachi," (the "Senate Subcommittee"). Id. at ¶¶ 25, 26, 28 and 29. See also Ex. F to the Lenehan Affidavit. During the Senate Subcommittee hearings, proof was offered depicting the hierarchy of the Genovese Family, as it existed in 1987. That proof identifies Matthew Ianniello as a Capo, and Bobby Manna as the Consiglieri, of the Genovese Family. Id. at ¶¶ 25 and 29. See also Ex. G to the Lenehan Affidavit.

Lenehan also refers to the deposition testimony of Jimmy Fratianno and Angelo Lonardo given in United States v. IBT, 88 Civ. 4486 (DNE) (S.D.N.Y.). Still further, Lenehan references the

⁵ Although not specifically named in the charge, the evidence offered showed that Reynolds had also knowingly associated with Nunzio Provenzano.

⁶ Anthony Provenzano was considered by the FBI to have been a member of the Genovese Family at the time of his death on December 12, 1988.

affidavit and testimony of Vincent Cafaro before the Senate Subcommittee. Fratianno, Lonardo and Cafaro are all self-admitted members of La Cosa Nostra.

Fratianno testified that Matthew Ianniello was introduced to him as a Capo in the Genovese Family and that he knew Anthony Provenzano to be a member of the Genovese Family. Id. at ¶¶ 25 and 26. See also Ex. A to the Lenehan Affidavit.

Lonardo testified that he knew Matthew Ianniello and Anthony Provenzano to be members of the Genovese Family. Ibid. See also Ex. E to the Lenehan Affidavit.

Cafaro identified Matthew Ianniello, Anthony Provenzano and Nunzio Provenzano as members and Bobby Manna as the Consiglieri of the Genovese Family. Id. at ¶¶ 25, 26, 28 and 29. See also Ex. B. to the Lenehan Affidavit.

In addition, Lenehan refers to the testimony of Salvatore Joseph Sinno given in United States v. Local 560, et al., 82 Civ. 689 (D.N.J.), wherein Sinno stated that Anthony Provenzano had identified himself to Sinno as a member of the Genovese Family and that Sinno knew Nunzio Provenzano to be a member of the Genovese Family. Id. at ¶ 26 and 28. See also Ex. BH to the Lenehan Affidavit.

Finally, Lenehan also refers to some of the FBI confidential informant reports regarding information provided by Jackie Presser, the former General President of the IBT, which indicate that Presser knew that Anthony Provenzano was a member of

organized crime. Id. at ¶ 36. See also Exs. R-1 to R-6 to the Lenehan Affidavit.

Given Lenehan's expert knowledge of organized crime in New Jersey, and given the corroborating proofs, I find that the Investigations Officer has established that Matthew Ianniello is a member and at one time served as a Capo in the Genovese Crime Family; that Bobby Manna is a member and at one time served as the Consigliere of the Genovese Crime Family; that Anthony Provenzano at the time of his death, was a member of the Genovese Crime Family; and that Nunzio Provenzano is a member of the Genovese Crime Family.⁷

B. Reynolds' Associations with Members of Organized Crime

Prior to his involvement with Local 641, Reynolds became involved in the affairs of IBT Local 560 (Union City, New Jersey) at a time when that local was dominated by the Provenzano Group. The Provenzano Group consisted of Anthony Provenzano, Nunzio Provenzano, Salvatore Provenzano (the former President of Local 560) and their associates. Reynolds was considered to be an associate of the Provenzano Group. United States v. Local 560, International Brotherhood of Teamsters, 581 F. Supp. 279, 318, 328 and 334-337 (D.N.J. 1984), aff'd, 780 F.2d 267 (3d Cir. 1985),

⁷ As explained in the Lenehan Declaration, "[a] 'made' member of La Cosa Nostra must remain a La Cosa Nostra member until his death."

cert. den., 476 U.S. 1140 (1986). Through this group the Genovese Family was able to influence, dominate and control the affairs of Local 560 for many years. Law enforcement efforts to remove the influence of the Genovese Family in the affairs of Local 560 culminated in a civil RICO suit being filed by the Government and the issuance of an Order enjoining the Provenzano Group from any relationship with Local 560. Lenehan Affidavit at ¶ 32. See also United States v. Local 560, supra, 581 F. Supp. at 279.

During the time period in which the Provenzano Group exerted control over Local 560, Reynolds was appointed by Nunzio Provenzano to the position of Business Agent within Local 560. United States v. Local 560, supra, 581 F. Supp. at 306. See also Exs N-1 to N-3 to the Lenehan Affidavit.

Reynolds left Local 560 as an officer after the Government Trustee removed him. Later on, he was appointed as an Organizer for Local 641. Lenehan Affidavit at ¶ 51, 53. See also Ex. V, V-5 and V-6 to the Lenehan Affidavit.⁸

The evidence presented to me through the Lenehan Affidavit and exhibits suggests that Reynolds provided a key link between organized crime and the IBT by accepting illegal payoff money from employers and delivering it to members of the Genovese Family. For example, Lenehan refers to a signed statement provided

⁸ As noted at the outset, in a letter dated November 21, 1990, Albert G. Kroll (counsel for Local 641) advised me that Andrew Reynolds has not been employed by Local 641 since approximately August, 1990.

by Vincent Cafaro (a self-admitted member of La Cosa Nostra), to the FBI in which Cafaro states that he personally knew Reynolds. Cafaro also states that Reynolds was one of the individuals responsible for obtaining and delivering payoff money to Matthew Ianniello. The money had been regularly paid to Anthony Provenzano before his incarceration. The payoff money was related to an established "sweetheart contract" between Local 560 and a trucking company called Walsh Trucking. Lenehan Affidavit at ¶ 58. See also Ex. AO to the Lenehan Affidavit.

In this same connection, Reynolds was named as an unindicted co-conspirator in the matter of United States v. Francis J. Walsh, Jr., Carmine R. Zeccardi, Vincent Cafaro, James A. Ida and Stephen Andretta, 88 Cr. 114 (D.N.J.). Id. at ¶ 59. See also Ex. AP to the Lenehan Affidavit. Subsequent to the filing of that indictment, separate informations were filed which named Reynolds as one of the individuals who received illegal "labor peace" payments. Ibid. See also Exs. AQ and AR to the Lenehan Affidavit.

Additional evidence was introduced of instances where Reynolds associated with members of organized crime in connection with the collection and delivery of illegal payoff money from employers. See United States v. Local 560, 581 F. Supp. at 316 ("Andrew Reynolds has also had contact with reputed members of this larger criminal organization [the Genovese Crime Family].")

On July 29, 1980, the FBI observed Reynolds leaving the offices of Local 560, driving to the Little Italy area of New York

City and meeting with Matthew Ianniello and Nunzio Provenzano. Lenehan Affidavit at ¶ 62. See also Ex. AY to the Lenehan Affidavit. On July 17, 1980, the FBI observed Reynolds leaving the offices of Local 560, driving to the Little Italy area of New York City and meeting with Bobby Manna and Nunzio Provenzano. Id. at ¶ 63. See also Ex. AZ to the Lenehan Affidavit.

Moreover, on several occasions, Reynolds visited Anthony Provenzano at the Federal Correctional Institution at Lompoc, California, during Provenzano's incarceration at that facility. Id. at ¶ 65. See also Exs. BB, BC, BD, BE and BF to the Lenehan Affidavit. FBI reports concerning an investigation of visitor records at Lompoc prison show that Reynolds visited Provenzano at the prison on December 6, 1979; February 16, 1980; February 17, 1980; February 18, 1980; February 19, 1980; February 20, 1980; February 22, 1980; March 17, 1980; March 18, 1980; May 6, 1980; May 7, 1980; May 8, 1980; May 26, 1980; July 22, 1980; July 23, 1980; September 12, 1980; September 13, 1980; June 18, 1982; and June 19, 1982. Ibid. The visitor records also indicate that Nunzio Provenzano had often visited Anthony Provenzano at the prison on the same day as Reynolds did on December 6, 1979; February 17, 1980; March 17, 1980; March 18, 1980; May 26, 1980; September 12, 1980; and September 13, 1980. Ibid.

In addition, on November 6, 1984, Matthew Ianniello and Stephen Andretta had a conversation concerning Local 560 in a construction trailer located in Edgewater, New Jersey, which was

intercepted and recorded by the FBI pursuant to a court-ordered electronic surveillance. The transcript of that conversation indicates that in discussing the affairs of Local 560 and the delivery of illegal payoffs from employers to members of organized crime, one of the people Ianniello and Andretta discussed was Reynolds. T20-13 to T23-1. See also Lenehan Affidavit at ¶ 67, and Exs. BJ and BK to the Lenehan Affidavit.

Given all this, I can reach no other conclusion than to find that the Investigations Officer has established that Andrew Reynolds has associated with Matthew Ianniello, Bobby Manna, Nunzio Provenzano and Anthony Provenzano on numerous occasions.

C. Reynolds "Knowingly Associated" with Members of Organized Crime

The remaining issue is whether the Investigations Officer has sustained his burden of proving that Reynolds "knowingly associated" with Ianniello, Manna and the Provenzanos.

In my July 12, 1990 decision, at pp. 35-36, in the matter of Investigations Officer v. Senese, et al., I held that:

[I]n order for the Investigations Officer to sustain his burden of proving a prohibited association with organized crime members, he must show that the contacts in question are purposeful and not incidental or fleeting. Such contacts may be shown in either a business or social context In determining whether the Investigations Officer has sustained his burden of proving a prohibited association, the focus will be placed on the nature and not the number of contacts in question.

In addition, I held that "[i]n the absence of direct evidence of knowledge of the organized crime ties of an associate, I conclude that such knowledge may be inferred from the duration and quality of the association." Id. at 37. My decision in Senese was affirmed in United States v. IBT (Application XII), 745 F. Supp 900 (S.D.N.Y. 1990).

As noted, the evidence presented to me establishes that in July of 1980 the FBI observed Reynolds leaving Local 560's offices, driving to Little Italy and meeting with Matthew Ianniello and Nunzio Provenzano. On another occasion, Reynolds was seen driving to Little Italy from Local 560 and meeting with Bobby Manna and Nunzio Provenzano.

When these contacts are viewed in light of the statement by Vincent Cafaro that Reynolds was responsible for obtaining illegal payoff money from employers as part of various "sweetheart contracts" between Local 560 and its employers and then delivering that money to Anthony Provenzano, prior to Anthony Provenzano's imprisonment, and thereafter to Matthew Ianniello, it is clear that Reynolds' associations with Matthew Ianniello, Bobby Manna, Nunzio and Anthony Provenzano were not incidental or fleeting, but rather planned and purposeful encounters. To worsen matters, the encounters were designed to further an illegal enterprise.

Moreover, it is impossible to characterize Reynolds' twenty visits to Lompoc prison to meet with a convicted felon and member of the Genovese Crime Family as fleeting or incidental. These

meetings can be described as nothing other than purposeful. This seems especially so, given the seven overlapping visits by Nunzio Provenzano.

In short, given the nature and frequency of Reynolds' meetings with various members of the Genovese Family, I find that Reynolds' associations with members of organized crime were "knowing."

Accordingly, I find that the Investigations Officer has satisfied his burden of proving by a preponderance of the evidence that Andrew Reynolds knowingly associated with the following members of the Genovese Family of La Cosa Nostra -- Matthew Ianniello, Bobby Manna, Nunzio Provenzano and Anthony Provenzano.

IV. The Failure to Testify Charge

The Investigations Officer also charged that Reynolds brought reproach upon the IBT, violated his oath and violated the AFL-CIO Code of Ethical Practices by taking the Fifth Amendment and refusing to answer questions when he was deposed in United States v. Local 560 on August 17, 1982. A review of the transcript of this deposition (Ex. BI to the Lenehan Affidavit) reveals that Reynolds, then a Business Agent in Local 560, repeatedly took the Fifth Amendment and refused to answer questions relating to kickbacks from employers, embezzlement of union funds, the business of Local 84 (of which Reynolds was the President until it merged into Local 560), the business of Local 560, whether he knew Bobby Manna, Matthew Ianniello or Nunzio Provenzano, and whether he had

ever met with or had any dealings with these individuals and other matters.

As discussed briefly above, United States v. Local 560 was a landmark case in the Government's efforts to rid the IBT of the influence of organized crime. United States District Court Judge Harold Ackerman, in his opinion in that case, refers at length to Reynolds' refusal to testify when deposed. United States v. Local 560, supra, 581 F. Supp. at 305-306. In conclusion, Judge Ackerman stated:

This invocation of the Fifth Amendment privilege by Andrew Reynolds -- who was appointed to the position of Business Agent within Local 560 by Nunzio Provenzano and retained in that position by Salvatore Provenzano -- is admissible in a civil trial against both him and his co-conspirators under Rule 601(d)(2)(E) of the Federal Rules of Evidence, as well as the Executive Board of Local 560. In these circumstances I draw an adverse inference from his silence. See Baxter v. Palmigiano, 425 U.S. 308 (1976). Specifically, I find that had he responded truthfully to those questions, his answers would be incriminatory.

I find that Reynolds' refusal to testify when deposed in United States v. Local 560 brought reproach upon the IBT. In reaching this conclusion, the rationale underlying the "AFL-CIO Executive Council Statement on the use of the Fifth Amendment in Investigations of Racketeering, January 28, 1957," is especially compelling:

It is the policy of the AFL-CIO . . . that if a trade union official decides to invoke the Fifth Amendment for his personal protection and to avoid scrutiny by proper legislative committees, law enforcement agencies or other public bodies into alleged corruption on his part, he has no right to continue to hold office in his union. Otherwise,

it becomes possible for a union official who may be guilty of corruption to create the impression that the trade union movement sanctions the use of the Fifth Amendment, not as a matter of individual conscience, but as a shield against proper scrutiny into corrupt influences in the labor movement.

In this case, Andrew Reynolds was deposed and asked questions relating to his association with members of organized crime and their involvement in one of the worst cases of organized crime infiltration of an IBT local in the history of the IBT. Thus, his refusal to testify was especially reproachful. See also Investigations Officer v. Senese, et al., Opinion of the Independent Administrator (July 12, 1990) at p. 27, aff'd, United States v. IBT (Application XII), 745 F. Supp 908, 917 (S.D.N.Y. 1990).

V. The Penalty To Be Imposed

Reynolds' associations with various members of La Cosa Nostra are repugnant to a Union committed to cleansing itself of the influence of organized crime. Reynolds regularly met with members of the Genovese Family as part of a scheme to extort illegal payoffs from employers. Reynolds himself was responsible for obtaining the payoffs and delivering them to either Anthony Provenzano, a member of the Genovese Family, or to Matthew Ianniello, a Capo in the Genovese Family. Then, when he was deposed in a case investigating this exact criminal activity,

including the influence of the Genovese Family in the affairs of Local 560, Reynolds chose to remain silent.

Moreover, during this same time period, Reynolds visited Anthony Provenzano in prison twenty different times.

Given that the primary goal of the Consent Order is to cleanse the IBT of its organized crime influence, I find that the only just penalty for Reynolds is permanent debarment from the IBT.

In the past, I have also imposed sanctions impacting upon a respondent's employee benefits, including pension, health and welfare benefits. See Investigations Officer v. Senese, et al., Supplemental Decision of the Independent Administrator (November 29, 1990), aff'd, United States v. IBT, (Application XVI), slip op. (S.D.N.Y. December 28, 1990). Before imposing such sanctions, however, I have invited the respondent to submit a schedule of benefits as well as a memorandum on the issues raised in imposing sanctions touching upon those benefits. The Investigations Officer, the Government and the IBT are also invited to submit memoranda on the subject. Given Reynolds refusal to participate in this process, it would serve no purpose to invite submissions from him. Nevertheless, sanctions impacting upon Reynolds' employee benefits, to the extent they exist, are in order.

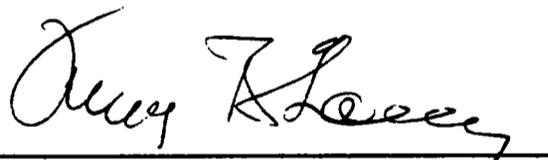
The first category of benefits to address are those that are administered by both IBT-affiliated persons or entities, on the one hand, and non-IBT affiliated persons and entities, on the other. In the past, I have characterized such benefits as "Third-

Party Plans." If Reynolds is a participant in any Third-Party Plan, I direct that the IBT and any affiliate that may contemplate doing so, to discontinue making payment of Union funds to such Third-Party Plans on Reynolds' behalf. This ruling does not interfere with Reynolds' 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 Reynolds which are under their exclusive control (such as bonuses and Local controlled severance plans), they are hereby directed not to make such payments.

I ask the Investigations Officer to send copies of this Decision to any IBT-affiliated entity that he suspects may seek to transfer benefits to Reynolds.

Given Reynolds' decision to ignore these proceedings, I see no need to stay this decision, thus the penalties imposed herein shall take effect immediately. I will, however, file this Opinion with United States District Court Judge David N. Edelstein by way of Application and request that he issue an order approving my findings and the penalties imposed.


Frederick B. Lacey
Independent Administrator

Dated: April 11, 1991