

INDEPENDENT REVIEW BOARD
444 North Capitol St., NW, Suite 528
Washington, DC 20001
(202) 434-8080
Facsimile (202) 434-8084
Corruption Hotline (800) CALL IRB

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Chief Investigator:
Charles M. Carberry, Esq.
17 Battery Place, Suite 331
New York, NY 10004

Administrator:
John J. Cronin, Jr.

Board Members:
Grant Crandall, Esq.
Crandall, Pyles & Haviland
1021 Quarrier Street
Charleston, WV 25301
Frederick B. Lacey, Esq.
LeBoeuf, Lamb, Greene & MacRae
One Riverfront Plaza
Newark, NJ 07102-5490
William H. Webster, Esq.
Milbank, Tweed, Hadley & McCloy
1825 Eye Street, NW, Suite 1100
Washington, DC 20006

December 9, 1998

Mr. Tom Sever
Acting General President
International Brotherhood of Teamsters
Washington, DC 20001

Re: Charges against Local 918 Executive Board Members

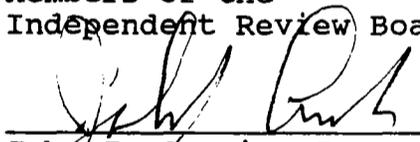
Dear Mr. Sever:

The Independent Review Board has reviewed your decision of October 8, 1998, in the above-captioned matter and finds the decision to be not inadequate.

Very truly yours,

Members of the
Independent Review Board

By:


John J. Cronin, Jr.
Administrator

cc: Charles Carberry, Esq.
David Neigus, Esq.

Pursuant to the Consent Order of the United States District Court, S.D.N.Y.
United States -v- International Brotherhood of Teamsters 88 CIV 4486 (DNE)

INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

AFL-CIO



OFFICE OF
TOM SEVER
GENERAL SECRETARY-TREASURER

October 8, 1998

Mr. Eugene P. Maney
Trustee
Teamsters Local Union No. 918
2137-2147 Utica Avenue
Brooklyn, New York 11234

Re: Decision On Charges Against Local Union 918
Officers Louise Davis, William Dennehey,
Yetkin Kurulgan and David Lofton

Dear Sir and Brother:

This is in response to your letter dated September 21, 1998 requesting reconsideration of my decision dated September 9, 1998 on the charges against former Local Union 918 officers referred to you by the Independent Review Board ("IRB"), and additional charges you filed.

The panel that heard these charges recommended that Louise Davis, William Dennehey, Yetkin Kurulgan and David Lofton be barred for a period of five years from holding any office with Local Union 918, the IBT, any IBT affiliate or any affiliated employee benefit fund. The panel did not recommend barring those four members from employment with or compensation from the IBT or any IBT affiliated entity.

In my decision, I explicitly concurred with the Hearing Panel's recommendation as to the appropriate sanction to be imposed on each of the charged parties. However, I read the Hearing Panel's recommendation as barring Sister Davis and Brothers Dennehey, Kurulgan and Lofton from employment or receiving compensation as well as from holding office with Local Union 918, the IBT or any IBT affiliated entity. After receiving your correspondence, I realized that I imposed an additional penalty on those individuals to the one recommended by the Hearing Panel. I did not intend to increase the penalty recommended by the Hearing Panel. Accordingly, I hereby clarify and modify my September 9,

Mr. Eugene P. Maney
October 8, 1998
Page 2

1998 decision to follow precisely the penalty recommended by the
Hearing Panel.

Fraternally yours,



Tom Sever
Acting General President

TS/dnb

cc: Ms. Louise Davis
Mr. William Dennehey
Mr. Yetkin Kurulgan
Mr. David Lofton
Mr. Gene Moriarty
Mr. Robert Corbett
Mr. Daniel McGinley
Mr. John J. Cronin, Jr., IRB Administrator

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN THE MATTER OF:)
)
ARTICLE XIX CHARGES AGAINST)
DANIEL LOMBARDOZZI, ROGER) DECISION
IMMERGLICK, JASPER CUMELLA,)
LOUISE DAVIS, WILLIAM DENNEHY,)
YETKIN KURULGAN AND DAVID)
LOFTON)

Having reviewed and duly considered the hearing record and the Findings and Recommendations of the Article XIX Hearing Panel, I hereby issue the following decision on the proposed charges against former Local 918 officers Daniel Lombardozzi, Roger Immerglick, Jasper Cumella, Louise Davis, William Dennehy, Yetkin Kurulgan and David Lofton (the "Charged Parties") referred by the Independent Review Board ("IRB") to Local 918 Trustee Eugene Maney, and additional charges filed by Trustee Maney against the Charged Parties.

A hearing on the charges was held on June 9, 1998 in New York City before a Hearing Panel comprised of Chairman Eugene Moriarty, Robert Corbett and Daniel McGinley. The Hearing Panel submitted its Findings and Recommendations to me on September 4, 1998. A copy of the Hearing Panel's Findings and Recommendations is appended to this decision.

I concur with the findings set forth in the Hearing Panel's report and I adopt them in their entirety. The Hearing Panel found that the Charged Parties were guilty of all of the charges against them, except for one charge filed by Trustee Maney that the Panel found was time barred.

The first charge, recommended by the IRB, alleges that the Charged Parties breached their fiduciary duties to the members of Local 918 when they voted to transfer \$25,000 of Local Union funds to challenge the IBT's imposition of a trusteeship on Local 918 that was recommended by the IRB. The Hearing Panel found that each of the Charged Parties was aware that the IRB was conducting an investigation of the Local Union when they voted to expend Local Union funds to retain an attorney for the purpose of challenging the imposition of a trusteeship. By doing so, the Charged Parties placed their own personal interests in continuing in office ahead of the best interests of the Local Union and its membership. The Charged Parties did not offer any good reasons for challenging a trusteeship, either when they decided to expend Local Union funds or at the hearing in this case. Accordingly, the Hearing Panel found that each of the Charged Parties voted without justification to spend the Local Unions funds to preserve the Executive Board's control of the Local Union and thereby breached their fiduciary duties and brought reproach upon the IBT in violation of the IBT Constitution.

The remaining charges allege that the Charged Parties breached their fiduciary duties to Local 918 and brought reproach upon the IBT by (1) submitting for approval bylaws that had not been properly adopted, and then operating the Local without approved bylaws; (2) making financial decisions without the necessary authorizations and ratification by the membership; (3) failing to hold regular membership meetings; (4) maintaining a Cost Sharing

Agreement with the Local 918 benefit funds that did not accurately reflect actual costs incurred by the Local; (5) improperly accepting and failing to repay Executive Board meeting attendance fees; (6) permitting Local 918 to enter into and maintain "sham" collective bargaining relationships; and (7) permitting Local Union officers to be improperly nominated and elected. In all of these charges, the Hearing Panel concluded that the Charged Parties breached their fiduciary obligation to the membership and violated the IBT Constitution.

I also concur with the Hearing Panel's recommendation as to the appropriate sanction to be imposed on each of the Charged Parties. The Hearing Panel recommended that Daniel Lombardozzi, Roger Immerglick and Jasper Cumella be permanently barred from the IBT and held liable for \$25,000 improperly transferred to challenge the trusteeship and \$3,900 improperly received for attendance of full-time officers at Executive Board meetings. The Hearing Panel recommended that Louise Davis, William Dennehy, Yetkin Kurulgan and David Lofton be barred for a period of five years from holding any office with the IBT or any affiliated IBT entity. The Hearing Panel recommended a lesser penalty for Davis, Dennehy, Kurulgan and Lofton based on their submissions as well as the Hearing Panel's observations of them at the hearing. The Hearing Panel found that they had allowed themselves to be dominated by Lombardozzi, Immerglick and Cumella, and that in many instances did not fully understand their duties, obligations and responsibilities as members of the Local Union Executive Board.

Accordingly, I impose the following sanctions:

1. Daniel Lombardozzi, Roger Immerglick and Jasper Cumella are permanently barred from membership in the IBT and any IBT affiliated entity, and are permanently barred from receiving any salary or compensation, directly or indirectly, from the IBT or any IBT affiliated entity, accept for fully vested pension benefits.

2. Louise Davis, William Dennehy, Yetkin Kurulgan and David Lofton are barred for a period of five years from holding any office and from receiving any salary or compensation, directly or indirectly, from the IBT or any IBT affiliated entity.



Tom Sever
Acting General President

Dated: September 9, 1998

INTERNATIONAL BROTHERHOOD OF TEAMSTERS

-----X
In the Matter of: :

INDEPENDENT REVIEW BOARD CHARGES :
REFERRED TO, AND INTERNAL UNION CHARGES :
FILED BY, THE TEMPORARY TRUSTEE OF :
LOCAL 918, IBT, Eugene P. Maney, :

FINDINGS AND
RECOMMENDATIONS
OF HEARING PANEL

-against-

DANIEL LOMBARDOZZI, ROGER IMMERGLICK, :
JASPER CUMELLA, LOUISE DAVIS, WILLIAM :
DENNEHY, YETKIN KURULGAN & DAVID LOFTON, :

Respondents. :

-----X
I

INTRODUCTION

This matter arises from the March 4, 1998, May 8, 1998, and May 19, 1998 charges referred by the Independent Review Board ("IRB") to the International Trustee of Local 918, IBT (the "Local"), Eugene P. Maney ("Trustee Maney" or the "Charging Party"), pursuant to Article XIX of the IBT Constitution, against Local 918's officers and trustees (collectively, the "Charged Parties," and, individually, the "Charged Party").

A hearing was held on June 9, 1998, in New York, New York before an Article XIX hearing panel appointed by the IBT General-Secretary-Treasurer (the "Panel").¹ The

¹ The Panel consisted of Eugene Moriarty, Robert Corbett, and Dan McGinley. Mr. Moriarty served as Panel Chair. Joseph Padellaro, Special Assistant to the General President, a member of the IBT, a Trustee, and the International Representative in charge of overseeing all locals in trusteeship, presented the evidence on behalf of Trustee Maney. Of the Charged Parties, Daniel Lombardozzi, William Dennehy, Yetkin
(continued...)

Charging Party's case was presented by Joseph Padellaro, who was sworn. Kevin Carroll, a certified fund examiner, financial investigator, and forensic accountant was also called by the Charging Party. Lombardozzi, who was sworn, answered the charges on behalf of all respondents. He did not call any witnesses on behalf of himself or the other respondents.

The Panel has considered the oral and documentary evidence presented at the hearing and finds the evidence against the Charged Parties to be overwhelming. Moreover, even where Lombardozzi has attempted to controvert the evidence against him or otherwise to explain his conduct, the Panel finds that neither he nor his testimony was credible. Having reviewed and considered all of the evidence and having deliberated thereon, the Panel finds that the Charging Party has sustained his burden of establishing, by a preponderance of the reliable evidence as required by Article XIX, Section 1(e) of the IBT Constitution, that the Charged Parties are guilty as charged.

II

THE CHARGES

Charge One, filed against each Charged Party, alleges that each Charged Party breached his or her fiduciary obligation to the members of Local 918 and violated the International Constitution by voting to transfer \$25,000 of the Local's funds for the purpose of challenging the International Brotherhood of Teamsters' imposition of a trusteeship on Local 918.²

¹ (...continued)
Kurulgan, and David Lofton were present. Roger Immerglick, Jasper Cumella, and Louise Davis did not appear.

² The Local's funds were paid to Phillip C. Landrigan, an attorney who was retained to
(continued...)

Amended Charge One,³ filed against each Charged Party, alleges that each Charged Party breached his or her fiduciary obligation to the members of the Local and violated the International Constitution by permitting the Local to operate without properly adopted and approved Bylaws.

Amended Charge Two, filed against each Charged Party, alleges that each Charged Party breached his or her fiduciary obligation to the members of the Local and violated the International Constitution by permitting the Local to make significant financial decisions without the necessary authorization.

Amended Charge Three, filed against each Charged Party, alleges that each Charged Party breached his or her fiduciary obligation to the members of the Local and violated the International Constitution by failing to ensure that the Local held regular membership meetings.

Amended Charge Four, filed against each Charged Party, alleges that each Charged Party breached his or her fiduciary obligation to the Members of the Local and violated the International Constitution by implementing, or permitting the Local to maintain, a "Cost Sharing Agreement" with the Local 918 Funds, which did not accurately reflect the actual costs incurred by the Local.⁴

² (...continued)
represent the Local in connection with possible trusteeship proceedings. *See* Exhibits 11-13. All references to "Exhibit(s)" are to the exhibit books submitted by Padellaro on behalf of the Trustee and identified as "Trustee Exhibits 2, 2A, and 2B."

³ Amended Charge One is a separate charge, apart from and in addition to Charge One.

⁴ A cost sharing agreement is an agreement to apportion costs and operating expenses between the Local and the Local's Pension and Welfare Funds on a fixed percentage
(continued...)

Amended Charge Five, filed against Lombardozzi and Immerglick, alleges that Lombardozzi and Immerglick, the full-time officers, breached their fiduciary obligation to the members of the Local and violated the International Constitution by failing to repay the Local, and by failing to require that the other full-time officers repay the Local, for improperly received Executive Board meeting attendance payments.

Amended Charge Five, filed against Cumella, Davis, Dennehy, Kurulgan, and Lofton, alleges that each Charged Party breached his or her fiduciary obligation to the members of the Local and violated the International Constitution by failing to require the full-time officers to repay the Local for improperly received Executive Board meeting attendance payments.

Amended Charge Six, filed against each Charged Party, alleges that each Charged Party breached his or her fiduciary obligation to the members of the Local and violated the International Constitution by permitting the Local to enter into "sham" collective bargaining relationships designed to permit employers or their relatives to join the Local for the sole purpose of obtaining health benefits.

Amended Charge Seven, filed against each Charged Party, alleges that each Charged Party breach his or her fiduciary obligation to the members of the Local and violated the International Constitution by permitting officers to be improperly nominated and elected.

Amended Charge Eight, filed against Lombardozzi and Immerglick, alleges that they breached their fiduciary obligation to the members of the Local and violated the International Constitution by permitting Trustees' Certificates and Reports to be signed improperly.

⁴ (...continued)
basis.

III

FINDINGS AND DECISION

A. Charge One

The Charging Party alleged that each Charged Party breached his or her fiduciary obligation to the members of Local 918 and violated the International Constitution by voting to transfer \$25,000 of the Local's funds for the purpose of challenging the International Brotherhood of Teamsters' imposition of a trusteeship on Local 918.⁵

Notice of the Emergency Trusteeship was given to the officers and members of the Local on October 1, 1997. *See* Exhibit 5. While the IRB was conducting its investigation of the Local and prior to receiving notice of the imposition of the emergency Trusteeship, the Executive Board unanimously voted to expend and did expend \$25,000 in Local funds to retain an attorney for the purpose of challenging the imposition of a trusteeship. *See* Exhibits 12 and 13.

By an interpretation of the International Constitution dated November 17, 1995, General President Ron Carey held that in certain circumstances an Executive Board's transfer of funds to legal counsel to challenge the International's attempt to place a subordinate body in trusteeship violates the Executive Board member's fiduciary duty under Article XXII, Section 2(b) of the International Constitution, undermines the trusteeship provisions of the International Constitution, and violates Article VI, Sections 4(b) & 5(b)-(c) of the International Constitution. That interpretation emphasizes that when executive Board members of a local union, whose right

⁵ On September 16, 1997, the IRB recommended to IBT General President Carey that the IBT impose a Trusteeship on Local 918. *See* Exhibit 3. However, no official notice to the Local of a decision to impose a trusteeship was given until October 1, 1997.

to continue in office may be terminated as a result of the imposition of a trusteeship, without some reasonable justification commit local union funds to challenge a trusteeship, those Executive Board members have, in effect, placed their own personal interests in continuing in office above and in front of the best interests of the local union and its members and, therefore, breached their fiduciary duty.

The evidence presented in this case clearly indicates that each Charged Party voted to retain an attorney and to expend the Local's funds to pay that attorney to challenge the imposition of a trusteeship prior to reviewing the basis for the intended imposition of a trusteeship. Although in the context of an emergency trusteeship, such as that imposed on the Local, there might be circumstances in which local union Executive Board members would have good reasons, both objectively and subjectively, for challenging an imminent emergency trusteeship, no such reasons were articulated by any Charged Party in this case. Indeed, the remainder of our decision, which describes conduct of the Charged Parties warranting the imposition of an emergency trusteeship, confirms that no such good reasons existed.

Accordingly, each of the Charged Parties voted without justification to spend the Local's funds to preserve the Executive Board's control of the Local. The Panel finds that, in doing so, each of the Charged Parties breached his or her fiduciary duties and violated Article XXII, Section 2(b); Article XIX, Sections 7(b)(1), (2), and (3); and Article XIX, Section 9 of the International Constitution, and brought reproach upon the IBT and the Local in violation of Article II, Section 2(a) of the International Constitution.

B. Amended Charge One

The Charging Party alleged that during the tenure of each of the Charged Parties as members of the Executive Board, Local 918 failed, despite repeated notice from the IBT, to properly adopt bylaws satisfying the standards required by the IBT.

In his letter dated July 29, 1994, Lombardozzi told the IBT he would submit properly adopted Bylaws to the General President for approval. However, Lombardozzi and the other Charged Parties re-submitted proposed bylaws that had not been properly adopted for approval. *See Exhibits 17-23.*⁶ The International did not approve the Bylaws the Board submitted in 1995, and the Local operated without approved Bylaws until imposition of the Trusteeship.

The Panel finds that each of the Charged Parties thereby violated Article XXII, Section 1 and Article VI, Section 4(a) of the International Constitution and brought reproach upon the IBT and the Local in violation of Article II, Section 2(a) of the International Constitution.

C. Amended Charge Two

The Charging Party alleges that each of the Charged Parties breached his or her fiduciary obligations to the members of the Local by permitting the Local to make significant financial decisions without the necessary authorizations and ratification by the membership.

The evidence is overwhelming that the Charged Parties engaged in a pattern of making and implementing significant financial decisions without ratification by the membership and sometimes even without official action by the Executive Board. Because the Local operated

⁶ Lombardozzi falsely represented that the revised Bylaws had been properly approved by the membership when he submitted them to the IBT President in 1995. *See Exhibit 24.*

without approved Bylaws until imposition of the Trusteeship, see p. 7 above, the Executive Board lacked authority to make expenditures without membership authorization. However, a review of the minutes of the general membership meetings reveals that decisions concerning important financial matters were only alluded to and often were raised long after these decisions had been implemented. *See generally* Exhibits 25-27 and 29-30. These matters included the hiring of new personnel, the creation of new paid positions, payment of salary for previously unpaid positions, and the institution of a cost-sharing agreement. Salary increases and other benefits were granted to officers and employees of the Local without ratification by the membership.

The Panel finds that by acting without authority to make substantial financial expenditures each of the Charged Parties breached his or her fiduciary obligations to the members of the Local and brought reproach upon the IBT and the Local in violation of Article II, Section 2(a)(1) of the International Constitution.

D. Amended Charge Three

The Charging Party alleges that each of the Charged Parties breached his or her fiduciary obligations to the members of the Local by failing to hold regular membership meetings. The Panel has reviewed the relevant documentary evidence, *see generally* Exhibits 25-30, and the testimony of Kevin Carroll⁷ and finds that throughout the 1990's up to the time that the Trusteeship was imposed Local 918 consistently failed to hold regular membership meetings in violation of Article XIV, Section 2(a) (1) of the International Constitution. In addition, by breaching his or her fiduciary duties to the members of the Local, each of the Charged Parties

⁷ Carroll performed his investigative audit of Local 918 at the request of Trustee Maney. Transcript at 76.

brought reproach upon the IBT and the Local in violation of Article II, Section 2(a) of the International Constitution.

E. Amended Charge Four

The Charging Party alleges that each Charged Party breached his or her fiduciary obligations to the members of the Local and violated the International Constitution by implementing or permitting the Local to maintain a cost sharing agreement with the Local 918 Funds that did not accurately reflect the actual costs incurred by the Local.

In December 1993, a Cost Sharing Agreement was entered into between the Local 918 Pension and Welfare Funds (collectively, the "Funds") and Local 918. *See* Exhibit 31.⁸ The members of the Local never approved the Cost Sharing Agreement, and there is no indication that the Executive Board ever formally approved it.⁹ Pursuant to the agreement, the Local's operating expenses, including officers and employees salaries, were allocated on a percentage basis between the Local and the Funds. This arrangement vastly increased the Local's revenue, and the Local received more money under the Cost Sharing Agreement than it did in dues. This increased revenue was used to benefit certain members of the Executive Board rather than for the benefit of the members of Local 918.¹⁰

⁸ Lombardozi, Immerglick, Cumella, and Lofton were all on the Executive Board when the Cost Sharing Agreement took effect. Although Dennehy, Kurulgan, and Davis became members of the Executive Board after the agreement took effect, all of the Charged Parties bear responsibility for permitting the Local to operate under the agreement.

⁹ The independent auditor hired by Trustee Maney concluded that in his professional judgment the cost sharing agreement violated ERISA regulations. *See* Exhibit 41 and Transcript at 79-84.

¹⁰ The Panel also notes that the Local concealed the revenue received under the Cost
(continued...)

With the additional revenue, officers and employees received large increases in salary that the Local would not otherwise have been able to afford. *See* Exhibits 37, 38. In 1993, the Secretary-Treasurer and Recording Secretary of the Local received no salary, but in 1994, these two officers each received a salary of nearly \$50,000. New employees were also hired with the funds: a bookkeeper was hired at a salary of \$29,301 and a maintenance worker at a salary of \$22,806. Lombardozi's cousin was hired as office manager at a salary of \$40,700 to replace Davis, who had received only \$8100. *See* Exhibits 39, 40.

The Panel finds that the effect of the Cost Sharing Agreement was to benefit the officers and staff of the Local, rather than the members of the Local. Indeed, by improperly spending the assets of the Pension and the Health and Welfare Funds, the Charged Parties' implementation of the Cost Sharing Agreement operated to the detriment of the Local's members. Each of the Charged Parties thereby violated Article X, Section 8(a) and (b), Article VI, Section 4(b), Article II, Section 2(a), and Article XIX, Sections 7(b)(1), (2), and (14) of the International Constitution.

F. Amended Charge Five

The Charging Party alleges that the Charged Parties breached their fiduciary obligations to the Local by failing to require the full-time officers to repay the Local for

¹⁰ (...continued)
Sharing Agreement. The Local also failed to enter the amounts received in the TITAN system. *See* Letter from Auditor to IBT dated November 8, 1994 (Ex. 21) and *compare* the Trustee's original reports (Ex. 42) with the amended reports (Ex. 43).

Executive Board meeting attendance payments received prior to the Ethical Practices Policy dated October 10, 1995 (the "Ethical Practices Policy").¹¹

General President Carey's Ethical Practices Policy prohibits payments by a local union to full-time officers for attending Executive Board meetings unless the local union's bylaws specifically allowed for such payment. The Ethical Practices Policy also states that if unauthorized payments had been made in the past 5 years, such funds should be returned to the local union. *See Exhibit 44.*

Prior to 1995, each of the Local's Executive Board members received fifty dollars for attending Executive Board meetings. These payments are noted in the minutes of the Executive Board meetings, *see Exhibits 32-34*, and are summarized in Exhibit 46. There is no evidence that the Executive Board took any steps whatsoever to require repayment of money that had been paid improperly or that the full-time officers ever repaid the unauthorized payments they had received.

All of the Charged Parties were on the Executive Board at the time the Ethical Practice Policy was promulgated by the IBT General President. Therefore, even though only the full-time officers received and failed to repay improper payments, the Panel finds that by failing to take actions to recoup such improper payments each of the Charged Parties violated the Ethical Practices Policy and breached his or her fiduciary duties, and brought reproach upon the Local and the IBT in violation of Article II, Section 2(a) of the International Constitution.

¹¹ Lombardozzi and Immerglick are additionally charged with failing to repay the Local for money improperly received.

G. Amended Charge Six

The Charging Party alleges that each of the Charged Parties breach his or her fiduciary obligation to the members of the local and violated the International Constitution by permitting the Local to enter into and maintain “sham” collective bargaining relationships so that individuals who performed no bargaining unit work and who acted solely in managerial capacities could receive health benefits.

Evidence was presented that the Local entered into and maintained such sham bargaining relationships with many employers, including Corrado Manfredi, Richard Black, Messrs. Braha, Ira Weinstein, and Paul Taylor. *See* Transcript at 39-45 and 64-66. This evidence stands uncontroverted by the Charged Parties, and the Panel finds that the evidence presented supports the charge. The Panel notes, as did the IRB, that the practice of admitting employers as members of the Local was particularly dangerous in the circumstances here, since a quorum was usually lacking and only a small number of members actually attended meeting. Thus, there was a danger that Local decisions were susceptible to control by employers. *See* Transcript at 64-65 and Exhibit 3.

The Panel finds that by entering into and maintaining sham contracts, each of the Charged Parties engaged in acts which did not foster the welfare of the membership of the Local, and they breached their fiduciary obligation in violation of Article XIV, Section 3 and Article II, Sections 2(a) and (b) of the International Constitution.

H. Amended Charge Seven

The Charging Party alleges that each of the Charged Parties breached his or her fiduciary obligation to the members of the Local and violated the International Constitution by permitting officers to be improperly nominated and elected.

At the November 8, 1996 meeting, at which candidates wishing to serve as officers and trustees were to be nominated to run for election, the Charged Parties, who comprised the Executive Board, simply nominated each other as candidates. No one else was nominated, and since each candidate was unopposed, the Charged Parties were each summarily elected. *See* Exhibit 55. There is no evidence that any Local members, apart from the Charged Parties, attended this meeting, and there is no documentation or other evidence indicating that the membership had been given notice that nominations for officers and trustees would be made at this meeting. Since the positions were not contested, no elections were held at all, so the membership first heard about the nominations and elections of their leadership only after the Executive Board was already in power. The Panel finds that the Charged Parties' entire process of nominating and electing officers was designed so the Executive Board would remain entrenched in power without giving the membership an opportunity to nominate or elect others to the Board.

By conducting nomination meetings in this manner, the Charged Parties demonstrated their intention to maintain control of the Local without regard for the welfare of the membership or concern for union democracy. The Panel finds that each of the Charged Parties engaged in acts inconsistent with the principles of union democracy and which did not foster the welfare of the Local. Each of the Charged Parties thereby violated Article XXII, Section 4 and Article II, Section 2(a) of the International Constitution.

I. Amended Charge Eight

The Charging Party alleges that Lombardozzi and Immerglick breached their fiduciary obligations to members of the Local and violated the International Constitution by permitting Trustees' Certificates and Reports to be signed improperly.

In 1992, when Lombardozi was President and Immerglick Secretary-Treasurer of the Local, the IRB Chief Investigator recommended that charges be brought against certain Trustees of the Local. John Meekins was charged with improperly signing Trustee's Certificates and signing blank Trustee Certificates. Georgianna Jeffreys and Morris Jerome were charged with failing to sign Trustees' Reports. *See Exhibit 57.* However, during the time period that the IRB found that Meekins, Jeffreys, and Jerome were failing to perform their duties and were violating the International Constitution, Lombardozi and Immerglick held office and they were not charged.

Article XIX, Section 7(a) of the IBT Constitution provides that disciplinary charges "based upon misconduct which occurred more than five (5) years before the discovery of the conduct giving rise to the charge shall be rejected" except for charges based on non-payment of financial obligations. Because Amended Charge Eight concerning alleged misconduct that occurred and was discovered more than 5 years ago, amended Charge Eight is time-barred and should be dismissed.

IV

CONCLUSIONS AND RECOMMENDATIONS

Upon consideration of the oral and written testimony presented at the hearing on June 9, 1998, the Panel concludes that the Charging Party has established by a preponderance of the reliable evidence all of the charges made against the Charged Parties, except Amended Charge eight, which is time-barred and should be dismissed.

The Panel recommends that Daniel Lombardozi, Roger Immerglick and Jasper Cumella be: (1) permanently expelled from membership in the Local, the International, and all affiliates of the International; (2) permanently barred from holding membership of office in or

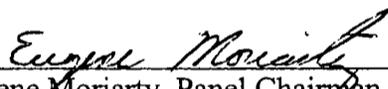
employment with the Local, the International, all affiliates of the International, or any affiliated employee benefit fund; (3) permanently barred from seeking or accepting money or other compensation for any goods or services from the Local, the International, all affiliates of the International, or any affiliated employee benefit plan (other than the receipt of vested benefits to which he or she may be lawfully entitled by reason of prior participation in an employee benefit plan); and (4) held jointly and severally liable for any and all losses incurred by the Local as a result of their violations of the International Constitution, including, but not limited to, \$25,000 for the improper transfer of money from the Local to attorney Landrigan and \$3,900 for the improper expenditure of funds for attendance of full-time officers at Executive Board meetings.

Following the hearing, the Panel received several post-hearing submissions: (i) separate letters from each of the three trustees, William Dennehy, Yetkin Kurulgan, and David Lofton, explaining their limited role in the misconduct forming the basis of the charges against them; and (ii) a letter from Eugene Maney, Trustee of Local 918, dated June 14, 1998, explaining the limited input those three trustees and Louise Davis had in the decisionmaking of the Local and describing how helpful each of the three trustees and Louise Davis had been to him in his role as Trustee. In reaching its conclusions and recommendations about the three trustees and Louise Davis, the Panel considered those post-hearing submissions, as well as the IRB deposition of Louise Davis, taken on July 29, 1997, and the Panel's observations and informal interactions with William Dennehy and David Lofton on the day of the hearing.

Based upon all those sources, it is the judgment of the Panel that while Louise Davis, William Dennehy, Yetkin Kurulgan, and David Lofton negligently discharged their duties and allowed themselves to be dominated by Lombardozzi, Immerglick, and Cumella, as a general

matter they did not act in bad faith. It appears that in many instances they did not fully understand their duties, obligations, and responsibilities as members of the Executive Board and were, in effect, unwitting pawns of Lombardozzi. With particular respect to the vote to appropriate \$25,000 to counsel to fight the imminent trusteeship, the post-hearing submissions clearly indicate that Louise Davis and two of the three trustees initially opposed such an expenditure, but Lombardozzi ultimately convinced them to change their vote through the force of his will and a telephone conversation with counsel, who assured the initial dissenters that such an expenditure was entirely lawful.

Therefore, the Panel recommends that Louise Davis, William Dennehy, Yetkin Kurulgan, and David Lofton be barred for a period of five years from holding any office with the Local, the International, all affiliates of the International, or any affiliated employee benefit fund.



Eugene Moriarty, Panel Chairman

Date: 7/3/98

Robert Corbett, Panel Member

Date: _____

Dan McGinley, Panel Member

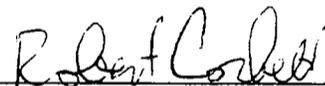
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Therefore, the Panel recommends that Louise Davis, William Dennehy, Yetkin Kurulgan, and David Lofton be barred for a period of five years from holding any office with the Local, the International, all affiliates of the International, or any affiliated employee benefit fund.

Eugene Moriarty, Panel Chairman

Date: _____



Robert Corbett, Panel Member

Date: Aug. 26, 1998

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Date: _____

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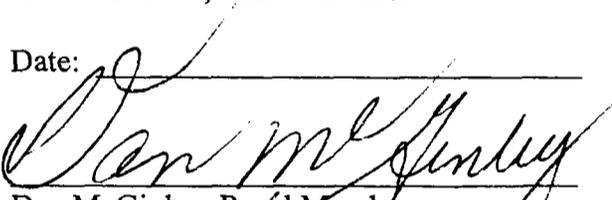
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Date: _____



Dan McGinley, Panel Member

Date: 8/26/98