



Copies of the charges are annexed as Exhibit A and are incorporated herein by reference.

2. We make this affidavit and agreement (the "agreement") to resolve the charges. This agreement does not constitute an admission by respondents of the truth of the allegations in the charges.

3. Howard Bennett is currently President of Local 294. Charles Bentley is currently Secretary-Treasurer of Local 294. Bernard Horn is currently Vice President of Local 294. Kevin D. Hunter is currently Recording Secretary of Local 294. Joseph Berghela, Sr. and Gerald Townley are currently Trustees of Local 294. David McComb is a business agent of Local 294.

4. We, the respondents, agree to pay \$17,920 to the local's general fund. We will pay \$8,960 by September 1, 1991 and the final \$8,960 by April 1, 1992. Each of us understand we are jointly and severally liable for this amount. Failure to pay any money required by the specified date shall be deemed a material breach of this agreement. Upon such material breach, we shall resign from any and all offices in Local 294 and shall thereafter neither seek nor accept any paid or unpaid office in Local 294. Upon payment date we will notify the Investigations Officer of the payment being made.

5. In addition, Respondent Bennett agrees to pay to the local's general fund \$3,450. He will pay \$1,725 by September 1, 1991 and \$1,725 by April 1, 1992. Failure to pay any money required by the specified date shall be deemed a

material breach of this agreement. Upon such material breach, respondent Bennett shall resign from any and all offices in Local 294 and shall thereafter neither seek nor accept any paid or unpaid office in Local 294. Upon payment date Bennett will notify the Investigations Officer of the payment being made.

6. Respondents all agree that the Local 294 executive board at its next scheduled meeting after approval of the agreement by the Independent Administrator will adopt the following matters (A), (B) and (C) as board resolutions and take all necessary steps to amend the Local Bylaws to add the language (A), (B) and (C):

Section 13(B) currently provides:

13(B) The Local Union Executive Board shall have the duty to investigate any alleged breach of fiduciary duty when circumstances so warrant and to take appropriate action if the investigation so merits.

A. [Add to Section 13(B) of the Local Union Bylaws]

The Executive Board shall conduct the investigation, directly or through a Special Counsel who does not represent the Local Union, its affiliated funds, Joint Council 18, or any of its affiliated funds. Upon completion of the investigation by the Executive Board or Special Counsel, including a hearing if requested, there shall be a direction from the Board or a recommendation from the Special Counsel to the Board. The Board shall take appropriate action to protect the interests of the Union and the membership. If the conduct of any Executive Board member is the subject of the investigation, that officer shall be disqualified from participating in any vote in this matter.

Section 7(F) currently provides:

7(F) The President shall have charge and supervision of all the officers and employees of this organization and shall have power to appoint, suspend, or discharge all appointive organizers, appointive Business Agents, Assistant Business Agents and employees. Vacancies occurring during the term of elected business agents, caused by death, resignation, shall be filled by appointment. Such appointment shall be made by the President and the appointee shall serve for the unexpired term of the vacancy. Executive officers are not disqualified from also serving as appointive Business Agents. The President shall appoint all committees.

B. [Add as the second sentence to Section 7(F) of the Local Union Bylaws]

However, the President shall not appoint anyone who has been convicted or plead guilty to a felony offense.

Section 13A(6) currently provides:

13A(6) fill any vacancies that occur during the term of such office, except as provided in Section 7, subsection (F).

C. [Add after the above language in Section 13(A)(6)]

However, the executive board shall not appoint anyone who has been convicted or plead guilty to a felony offense.

The Respondents will notify the Investigations Officer of action taken in each step of the bylaws amendment process within twenty four hours of the action taken by Local 294's board or the Local's members or the International.

7. The respondents and the Investigations Officer have entered into this agreement to fully resolve these charges. 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 294, arising out of the allegations contained in the charges or any other investigations.

8. 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.

9. 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.

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

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

*Howard Bennett*  
Howard Bennett  
President

*Joseph Berghela Sr.*  
Joseph Berghela, Sr.  
Trustee

*Charles Bentley*  
Charles Bentley  
Secretary-Treasurer

*Gerald Townley*  
Gerald Townley  
Trustee

*Bernard Horn*  
Bernard Horn  
Vice President

*David McComb*  
David McComb  
Business Agent

*Kevin D. Hunter*  
Kevin D. Hunter  
Recording Secretary

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

*Kathleen A. Harkins*  
Notary Public  
KATHLEEN A. HARKINS  
Notary Public, State of New York  
Qualified in Albany County  
Reg. No. 4784647  
Commission Expires Jul. 31, 1991

*Richard W. [Signature]*  
Counsel for Respondents

Agreed: *Charles M. Carberry*  
Investigations Officer

Approved: *James P. [Signature]*  
Independent Administrator

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

<hr/>		X
INVESTIGATIONS OFFICER,	:	
Claimant,	:	
- v -	:	
GERALD TOWNLEY	:	<u>CHARGE</u>
Trustee	:	
Local 294	:	
Albany, New York	:	
Respondent.	:	
<hr/>		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 enclosed.

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.

You are charged with acting in a manner to bring reproach on the International Brotherhood of Teamsters (IBT), breaching your fiduciary duties to the members of Local 294 and embezzling from Local 294 while its Trustee in violation of Art. II, section 2(a) and Art. XIX, section 6(b)(1), (2) and (3) of the IBT Constitution and sections

13(b) and 15(c) of Local 294's By-Laws by fraudulently appropriating and converting to the use of others, Local 294 monies, assets and property, and failing in your duties to investigate breaches of fiduciary duty, to wit:

1) In 1988 you knew or should have known that Nicholas Robilotto, while an officer of Local 294, embezzled money from the Local and from Funds and was convicted on his plea of guilty for not reporting on tax returns these embezzled monies, as income. United States v. Robilotto, 81 CR 18 (N.D.N.Y.). You

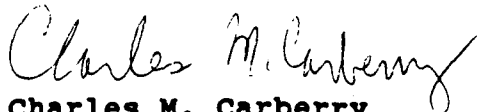
failed to investigate in 1988 his misconduct when you wrongfully authorized over \$16,000 of local funds to be used to pay for a car for Robilotto as President Emeritus. In addition, you wrongfully had the Local pay over \$1,000 for Robilotto's expenses on the car since its purchase in 1989. Furthermore, since 1983 you have wrongfully allowed the Local to continue to pay Robilotto's membership dues.

If you had fulfilled your duty to investigate, you would have known that besides Robilotto's conviction for not reporting as income money embezzled from the Local and Funds, Robilotto asserted his privilege against self-incrimination to shield his conduct from scrutiny in a federal investigation into fraud in the union health and welfare fund in 1985 and of his contacts with members of organized crime publicly reported in U.S. Senate hearings in 1988.



2) You again violated Local 294's bylaws in 1989 when you caused the Local to spend over \$24,000 for a car for a retiring business agent in explicit violation of a by-law prohibition.

Very truly yours,



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

Dated: February 1, 1991

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

	X	
INVESTIGATIONS OFFICER, Claimant,	:	
- v -	:	
JOSEPH A. BERGHELA, SR. Trustee Local 294 Albany, New York Respondent.	: : : :	<u>CHARGE</u>
	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 enclosed.

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.

You are charged with acting in a manner to bring reproach on the International Brotherhood of Teamsters (IBT), breaching your fiduciary duties to the members of Local 294 and embezzling from Local 294 while its Trustee in violation of Art. II, section 2(a) and Art. XIX, section 6(b)(1), (2) and (3) of the IBT Constitution and sections

13(b) and 15(c) of Local 294's By-Laws by fraudulently appropriating and converting to the use of others, Local 294 monies, assets and property, and failing in your duties to investigate breaches of fiduciary duty, to wit:

1) In 1988 you knew or should have known that Nicholas Robilotto, while an officer of Local 294, embezzled money from the Local and from Funds and was convicted on his plea of guilty for not reporting on tax returns these embezzled monies, as income. United States v. Robilotto, 81 CR 18 (N.D.N.Y.). You

failed to investigate in 1988 his misconduct when you wrongfully authorized over \$16,000 of local funds to be used to pay for a car for Robilotto as President Emeritus. In addition, you wrongfully had the Local pay over \$1,000 for Robilotto's expenses on the car since its purchase in 1989.

If you had fulfilled your duty to investigate, you would have known that besides Robilotto's conviction for not reporting as income money embezzled from the Local and Funds, Robilotto asserted his privilege against self-incrimination to shield his conduct from scrutiny in a federal investigation into fraud in the union health and welfare fund in 1985 and of his contacts with members of organized crime publicly reported in U.S. Senate hearings in 1988.

2) You again violated Local 294's bylaws in 1989 when you caused the Local to spend over \$24,000 for a car for a retiring business agent in explicit violation of a by-law prohibition.

Very truly yours,



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

Dated: February 1, 1991

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

	X	
INVESTIGATIONS OFFICER, Claimant,	:	
- v -	:	
DAVID MCCOMB Business Agent Local 294 Albany, New York Respondent.	:	<u>CHARGE</u>
	:	
	:	
	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 enclosed.

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.

You are charged with acting in a manner to bring reproach on the International Brotherhood of Teamsters (IBT), breaching your fiduciary duties to the members of Local 294 and embezzling from Local 294 while its Vice President in violation of Art. II, section 2(a) and Art. XIX, section 6(b)(1), (2) and (3) of the IBT Constitution and sections

13(b) and 15(c) of Local 294's By-Laws by fraudulently appropriating and converting to the use of others, Local 294 monies, assets and property, and failing in your duties to investigate breaches of fiduciary duty, to wit:

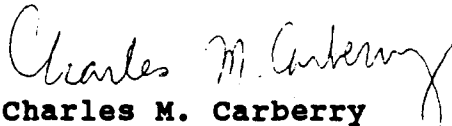
1) In 1988 you knew or should have known that Nicholas Robilotto, while an officer of Local 294, embezzled money from the Local and from Funds and was convicted on his plea of guilty for not reporting on tax returns these embezzled monies, as income. United States v. Robilotto, 81 CR 18 (N.D.N.Y.). You

failed to investigate in 1988 his misconduct when you wrongfully authorized over \$16,000 of local funds to be used to pay for a car for Robilotto as President Emeritus. In addition, you wrongfully had the Local pay over \$1,000 for Robilotto's expenses on the car since its purchase in 1989. Furthermore, during your membership on the Executive Board you wrongfully allowed the Local to continue to pay Robilotto's membership dues.

If you had fulfilled your duty to investigate, you would have known that besides Robilotto's conviction for not reporting as income money embezzled from the Local and Funds, Robilotto asserted his privilege against self-incrimination to shield his conduct from scrutiny in a federal investigation into fraud in the union health and welfare fund in 1985 and of his contacts with members of organized crime publicly reported in U.S. Senate hearings in 1988.

2) You again violated Local 294's bylaws in 1989 when you caused the Local to spend over \$24,000 for a car for a retiring business agent in explicit violation of a by-law prohibition.

Very truly yours,



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

Dated: February 1, 1991

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

<hr/>		X
INVESTIGATIONS OFFICER,	:	
Claimant,	:	
- v -	:	
KEVIN D. HUNTER	:	<u>CHARGE</u>
Recording Secretary	:	
Local 294	:	
Albany, New York	:	
Respondent.	:	
<hr/>		X

SIR:

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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.

You are charged with acting in a manner to bring reproach on the International Brotherhood of Teamsters (IBT), breaching your fiduciary duties to the members of Local 294 and embezzling from Local 294 while its Recording Secretary in violation of Art. II, section 2(a) and Art. XIX, section 6(b)(1), (2) and (3) of the IBT Constitution and sections



13(b) and 15(c) of Local 294's By-Laws by fraudulently appropriating and converting to the use of others, Local 294 monies, assets and property, and failing in your duties to investigate breaches of fiduciary duty, to wit:


1) In 1988 you knew or should have known that Nicholas Robilotto, while an officer of Local 294, embezzled money from the Local and from Funds and was convicted on his plea of guilty for not reporting on tax returns these embezzled monies, as income. United States v. Robilotto, 81 CR 18 (N.D.N.Y.). You

failed to investigate in 1988 his misconduct when you wrongfully authorized over \$16,000 of local funds to be used to pay for a car for Robilotto as President Emeritus. In addition, you wrongfully had the Local pay over \$1,000 for Robilotto's expenses on the car since its purchase in 1989. Furthermore, since 1983 you have wrongfully allowed the Local to continue to pay Robilotto's membership dues.

If you had fulfilled your duty to investigate, you would have known that besides Robilotto's conviction for not reporting as income money embezzled from the Local and Funds, Robilotto asserted his privilege against self-incrimination to shield his conduct from scrutiny in a federal investigation into fraud in the union health and welfare fund in 1985 and of his contacts with members of organized crime publicly reported in U.S. Senate hearings in 1988.

2) You again violated Local 294's bylaws in 1989 when you caused the Local to spend over \$24,000 for a car for a retiring business agent in explicit violation of a by-law prohibition.

Very truly yours,

  
Charles M. Carberry  
Investigations Officer  
30th Floor  
599 Lexington Avenue  
New York, New York 10002

Dated: February 1, 1991

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

<hr/>		X
INVESTIGATIONS OFFICER,	:	
Claimant,	:	
- v -	:	
HOWARD BENNETT,	:	<u>CHARGE</u>
President, Local 294	:	
Albany, New York	:	
Respondent.	:	
<hr/>		X

SIR:

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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.

You are charged with acting in a manner to bring reproach on the International Brotherhood of Teamsters (IBT), breaching your fiduciary duties to the members of Local 294 and embezzling from Local 294 while its Secretary-Treasurer and President in violation of Art. II, section 2(a) and Art. XIX, section 6(b) (1), (2) and (3) of the IBT Constitution and sections

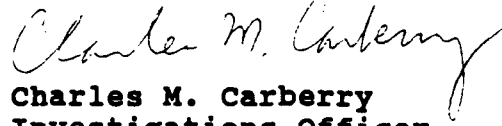
13(b) and 15(c) of Local 294's By-Laws by fraudulently appropriating and converting to the use of others, Local 294 monies, assets and property, valued over \$60,000 and failing in your duties to investigate breaches of fiduciary duty, to wit:

1) You knew or should have known that Nicholas Robilotto, while an officer of Local 294, embezzled money from the Local and from Funds and was convicted on his plea of guilty for not reporting on tax returns these embezzled monies, as income. United States v. Robilotto, 81 CR 18 (N.D.N.Y.). Robilotto pleaded guilty on May 14, 1982. You failed to undertake your duty to investigate his breaches of his fiduciary duties before or after then. You had the Local give to Robilotto a car in 1982 worth \$17,878. You also again failed to investigate in 1988 his misconduct when you wrongfully authorized over \$16,000 of local funds to be used to pay for a car for Robilotto as President Emeritus. In addition, you wrongfully had the Local pay over \$1,000 for Robilotto's expenses on the car since its purchase in 1989. Furthermore, since 1983 you have wrongfully allowed the Local to pay over \$2,425 for Robilotto's membership dues.

If you had fulfilled your duty to investigate, you would have known that besides Robilotto's conviction for not reporting as income money embezzled from the Local and Funds, Robilotto asserted his privilege against self-incrimination to shield his conduct from scrutiny in a federal investigation into fraud in the union health and welfare fund in 1985 and of his contacts with members of organized crime publicly reported in U.S. Senate hearings in 1988.

2) You again violated Local 294's bylaws in 1989 when you caused the Local to spend over \$24,000 for a car for a retiring business agent in explicit violation of a by-law prohibition.

Very truly yours,



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

Dated: February 1, 1991

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

<hr/>		X
INVESTIGATIONS OFFICER,	:	
Claimant,	:	
- v -	:	
BERNARD M. HORN	:	<u>CHARGE</u>
Vice President	:	
Local 294	:	
Albany, New York	:	
Respondent.	:	
<hr/>		X

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Very truly yours,

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

Dated: February 1, 1991

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



	X	
INVESTIGATIONS OFFICER, Claimant,	:	
- v -	:	
CHARLES BENTLEY Secretary-Treasurer Local 294 Albany, New York Respondent.	:	<u>CHARGE</u>
	:	
	:	
	X	

SIR:

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If you had fulfilled your duty to investigate, you would have known that besides Robilotto's conviction for not reporting as income money embezzled from the Local and Funds, Robilotto asserted his privilege against self-incrimination to shield his conduct from scrutiny in a federal investigation into fraud in the union health and welfare fund in 1985 and of his contacts with members of organized crime publicly reported in U.S. Senate hearings in 1988.

2) You again violated Local 294's bylaws in 1989 when you caused the Local to spend over \$24,000 for a car for a retiring business agent in explicit violation of a by-law prohibition.

Very truly yours,

*Charles M. Carberry*

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

Dated: February 1, 1991

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