

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA	:	88 Civ. 4486 (DNE)
Plaintiff,	:	APPLICATION XL OF THE
v.	:	INDEPENDENT REVIEW BOARD
INTERNATIONAL BROTHERHOOD	:	-- AGREEMENT BETWEEN THE
OF TEAMSTERS, et al.	:	INDEPENDENT REVIEW BOARD
Defendant.	:	AND CARMINE FUSCO

Pursuant to Paragraph O. of the Rules and Procedures for Operation of the Independent Review Board ("IRB") for the International Brotherhood of Teamsters ("IRB Rules"), the IRB files this Application submitting the Compromise Agreement with Carmine Fusco ("C. Fusco"), member and former Vice President of IBT Local Union 1205 in Brooklyn, New York. This Agreement was approved by the IRB and is submitted to Your Honor for review and, if appropriate, to be entered as an order. The Agreement seeks to resolve the matter of The Independent Review Board v. Carmine Fusco. The Agreement, with a copy of the charges annexed thereto as Exhibit A, is enclosed herewith.

This Application recognizes the importance of Your Honor's February 2, 1994, Order in which Your Honor stated that all IRB Compromise Agreements shall "contain a paragraph informing signatories that the agreement will be reviewed and may be rejected." The Agreement reached between the IRB and C. Fusco satisfies this procedure for Your Honor's review.

C. Fusco was charged with bringing reproach upon the IBT and breaching his fiduciary duties in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(1) and (2) of the IBT

Constitution by allowing his relatives and employers to join Local 1205 solely to obtain health benefits through the Local 1205 Welfare Fund. C. Fusco was further charged with engaging in a conspiracy with an employer of Local 1205 members to deprive Union members of rights under the collective bargaining agreement.

Effective the date the IRB approved the Agreement, November 7, 1996, C. Fusco has agreed to resign permanently from membership in the IBT.

C. Fusco has further agreed not to:

(1) hold any position, employment, office or consulting or similar relationship, whether paid or unpaid, with Local 1205, the IBT or other IBT Entity;

(2) accept any salary, severance payment, allowance, fee or compensation of any kind from Local 1205, the IBT or any other IBT Entity;

(3) receive any benefits, gratuities, severance payment or gifts of any kind whatsoever from Local 1205, the IBT, or any IBT Entity, nor shall he accept any contributions on his behalf from Local 1205, the IBT or any other IBT Entity to any pension, health and welfare, severance or other benefit fund;

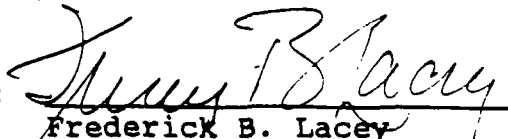
(4) participate in any manner in any of the activities or affairs of Local 1205, the IBT or any other IBT Entity, including, but not limited to, meetings, discussions, consultations, negotiations, votes or any other business or activity of Local 1205 or any other IBT Entity.

We have found the Agreement comports with Your Honor's February 2, 1994, Order and serves to resolve the charge in a fair and equitable manner.

Therefore, we respectfully request that Your Honor execute the Agreement on the line provided. This will, in effect, serve to have this Agreement "so ordered" by the Court. Thereafter, it is

respectfully requested that a member of Your Honor's staff file the fully executed original Agreement with the Clerk.

Dated: November 7, 1996

By:   
Frederick B. Lacey  
Member of the  
Independent Review Board

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In the Matter Of: :  
 :  
 . CARMINE FUSCO :  
 :  
 Before the :  
 :  
 INDEPENDENT REVIEW BOARD :  
 \_\_\_\_\_ X

**AFFIDAVIT AND AGREEMENT**

State of New York )  
 ) ss:  
County of New York )

I, CARMINE FUSCO, being duly sworn, depose and agree as follows:

1. On May 23, 1996, Patrick D. DeFelice, International Trustee of Local 1205, International Brotherhood of Teamsters ("Local 1205" or the "Union"), brought internal union charges against me. The hearing on these charges was held on June 19, 1996 and June 24-25, 1996 but the hearing panel has not yet issued its determination on the charges.

2. Three of these charges were recommended by the Independent Review Board ("IRB"), appointed pursuant to the Consent Order entered March 14, 1989 in United States v. International Brotherhood of Teamsters, 88 Civ. 4486 (DNE) (SDNY) (the "Consent Order"), in a report dated May 8, 1996. The charges recommended by the IRB allege that I breached my fiduciary duties to the membership and brought reproach upon the International Brotherhood of Teamsters ("IBT") by (1) causing or permitting the Union to enter into collective bargaining agreements with my relatives and friends so that these relatives and friends could obtain benefits under the Local 1205 Welfare Fund; (2) permitting employers to join the Union and receive

benefits under the Local 1205 Welfare Fund; and (3) failing to enforce the Union's contract with Kleet Lumber and refusing to process member grievances under this contract.

3. The other charges brought against me by Patrick DeFelice allege that I breached my fiduciary duties to the membership as a Local 1205 Executive Board official and brought reproach upon the IBT by (1) permitting nepotism in the hiring of Local 1205 officials; (2) failing to ensure that monthly membership meetings were held as required by the IBT Constitution and Local 1205 By-Laws; (3) failing to ensure that the Local 1205 By-Laws were consistent with the IBT Constitution; (4) receiving improper payments for attending Executive Board meetings as a Local 1205 Executive Board member; (5) failing to perform basic responsibilities as the Union Trustee on the Local 1205 Pension Fund; (6) permitting Executive Board appointments that violated the Local 1205 By-Laws; (7) accepting an Executive Board appointment that violated the Local 1205 By-Laws; and (8) issuing Union checks in violation of the rules and procedures mandated by the Local 1205 By-Laws and the IBT Constitution.

4. I hereby make this Affidavit and Agreement (the "Agreement") to resign from my IBT membership and all IBT affiliated positions in order to resolve the charges described in paragraphs 1 - 3 above. This Agreement does not constitute an admission of guilt.

5. I represent and agree to the following:

(a) I am a member of the IBT and a member of IBT Local 1205;

(b) Since my removal from the Local 1205 Executive Board and Boards of Trustees of the Local 1205 Pension, Welfare, Severance and Retirement Funds, I currently hold no elected or appointed offices of any kind, paid or unpaid, in the IBT or any of its affiliated entities including any locals, superior bodies, conferences, councils, pension, health, welfare or severance plans or other such entities (collectively "IBT Entities");

(c) I currently receive no salary, allowances, or remuneration of any kind from any IBT Entity.

6. I hereby permanently resign from membership in Local 1205 and the IBT effective upon the date this Agreement is approved by the IRB (the "Effective Date"). From the Effective Date of this Agreement forward, I agree never again to hold membership in the IBT or any IBT Entity. From the Effective Date of this Agreement forward, I further agree never again to hold any position, employment, office, or consulting or similar relationship, whether paid or unpaid, with Local 1205, the IBT or any other IBT Entity.

7. From the Effective Date of this Agreement forward, I shall not accept any salary, severance payment, allowance, fee or compensation of any kind from Local 1205, the IBT or any other IBT Entity, except that I may receive my fully vested benefits.

8. From the Effective Date of this Agreement forward, I shall not receive any benefits, gratuities, severance payment or gifts of any kind whatsoever from Local 1205, the IBT, or any IBT Entity, nor shall I accept any contributions on my behalf from Local 1205, the IBT, or any other IBT Entity to any pension, health and welfare, severance or other benefit fund.

9. From the Effective Date of this Agreement forward, I shall not participate in any manner in any of the activities or affairs of Local 1205, the IBT or any other IBT Entity, including, but not limited to, meetings, discussions, consultations, negotiations, votes or any other business or activity of Local 1205, the IBT or any other IBT Entity.

10. I understand that this Agreement is permanent.

11. I have entered into this Agreement upon the understanding that the IBT and IRB agree that they will not proceed with the charges described in paragraphs 1 - 3 above.

12. I understand that this Agreement is limited to the charges described in paragraphs 1 - 3 above and that the IBT and IRB expressly reserve the right to pursue charges against any other officer, member, employee or entity of Local 1205 or the IBT arising from the allegations contained in the charges described in paragraphs 1 - 3 above or from any other investigation.

13. I understand and agree that this Agreement will be submitted to the IRB for its review and, if approved by the IRB, will be submitted to the United States District Court for the

Southern District of New York for its review. I understand that, if this Agreement is approved by the United States District Court for the Southern District of New York, it will be entered as a Court Order. I understand that no representations have been made as to whether this Agreement will be approved by the IRB or the United States District Court for the Southern District of New York.

14. I make this Agreement freely, under no duress or coercion of any kind and after consultation with an attorney.

15. I authorize Patrick D. DeFelice to transmit this Agreement, signed by me, to the IRB. If it is signed by the IRB, it will then be submitted to the Court for review.

*Carmine Fusco*  
CARMINE FUSCO

Sworn to before me this  
12 day of July, 1996

*Rose Marie DiPiano*

ROSE MARIE DIPIANO  
Notary Public, State of New York  
No. 5009759  
Qualified in Suffolk County  
Commission Expires March 29, 1997

Witnessed *Kathryn L. Barattini*

Agreed:  
*Jean Blace*  
For the Independent Review Board

Dated *Nov. 7, 1996*

So Ordered:  
Hon. David N. Edelstein  
*David N. Edelstein*  
United States District Judge

Dated *11/18/96*