

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



Clerk Investigator:

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

Administrator:
John J. Cronin, Jr.

October 22, 2009

Board Members:
Benjamin R. Civiletti, Esq.
Venable LLP
575 7th Street, NW
Washington, DC 20004

Joseph E. diGenova, Esq.
diGenova & Toensing, LLP
1776 K Street, NW, Suite 737
Washington, DC 20006

William H. Webster, Esq.
Milbank, Tweed, Hadley & McCloy LLP
1850 K Street, NW, Suite 1100
Washington, DC 20006

VIA UPS NEXT DAY

Hon. Loretta A. Preska
United States District Court
United States Courthouse
500 Pearl Street, Room 1320
New York, NY 10007

Re: APPLICATION 138 OF THE INDEPENDENT REVIEW BOARD

Dear Judge Preska:

I transmit herewith one original and one copy of Application 138 of the Independent Review Board, submitting the Agreement regarding Ernest Sowell, approved by the IRB, to Your Honor for review, and if appropriate, to be "so ordered."

In addition to the Application, enclosed please find the original and one copy of:

- (a) the October 22, 2009, Agreement approved by the IRB;
- (b) an Acknowledgment of Receipt; and
- (c) an Affidavit of Service.


If you find it appropriate, I respectfully request that a member of Your Honor's staff file the original of the "backed" Application, Agreement, Acknowledgment of Receipt and Affidavit of Service with the Clerk's office.

Respectfully submitted,

Members of the
Independent Review Board

JJC:cft
Enclosures

By:



John J. Cronin, Jr.
Administrator

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 (LAP)

cc: Beth Goldman, AUSA
Charles M. Carberry, Esq.
Bradley T. Raymond, Esq., IBT General Counsel
David Van Os, Esq.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	88 CIV. 4486 (LAP)
	:	
v.	:	APPLICATION 138 OF THE
	:	INDEPENDENT REVIEW BOARD
INTERNATIONAL BROTHERHOOD OF	:	-- AGREEMENT BETWEEN THE
TEAMSTERS, <u>et al.</u>	:	INDEPENDENT REVIEW BOARD
	:	AND ERNEST SOWELL
	:	
Defendants.	:	

Pursuant to Paragraph O. of the Rules and Procedures for Operation of the Independent Review Board for the International Brotherhood of Teamsters ("IRB Rules"), the Independent Review Board ("IRB") files this Application submitting the Agreement with Ernest Sowell, former President of Local 747 and Trustee of Joint Council 58 in Houston, Texas. The Agreement has been approved by the IRB and is submitted to Your Honor for review and, if appropriate, to be entered as an order.

On June 17, 2009, the IRB issued an Investigative Report to IBT General President Hoffa recommending that Ernest Sowell, while an officer, employee and member of Local 747, be charged with violating his fiduciary duties to the Local and its members, embezzling and converting Local 747 funds to his own use, and bringing reproach upon the IBT by embezzling over \$251,877.15 from Local 747. Mr. Hoffa notified the IRB that he filed the proposed charge and he returned the matter to the IRB when he concluded that to avoid any appearance of bias or prejudice, it would be appropriate for these charges to be heard by the IRB

rather than by a hearing panel. The IRB then scheduled a hearing on Ernest Sowell for October 14, 2009. Before the scheduled hearing was held, Ernest Sowell forwarded to the IRB a signed proposed agreement with the IRB seeking to resolve the matter. The agreement is enclosed.

This Application complies with former United States District Court Judge David N. Edelstein's February 2, 1994, Order stating that all IRB Agreements shall "contain a paragraph informing signatories that the agreement will be reviewed and may be rejected." The Agreement reached between the IRB and Ernest Sowell satisfies this procedure. One "backed" original and one copy of an Acknowledgment of Receipt are enclosed with this Application for execution by Your Honor.

Effective October 22, 2009, Ernest Sowell has agreed to a five year suspension from the IBT and Local 747, and until the completion of the suspension term, not to hold membership in the IBT. From October 22, 2009 forward, he has further agreed:

(1) not to hold any position with Local 747 or any employment, office, position or consulting or similar relationship, whether paid or unpaid, with Local 747 and any IBT Entities;

(2) that if Local 747 owes him any monies under any currently existing obligation, any such payments shall be reduced by \$251,877.15; and if Local 747 owes him less than \$251,877.15, he will remain suspended from all IBT positions and IBT membership until the full amount is offset or directly paid to Local 747; and if that amount is not paid by the end of his suspension, he will be permanently barred from being a member of, employee of or consultant for the IBT;

(3) not to accept any pay, salary, allowance, fee or compensation of any kind, except that he may receive any fully vested pension benefits;


(4) not to accept any contributions on his behalf to any pension, health and welfare, severance or other benefit fund; nor receive any gratuities, severance payments or gifts of any kind whatsoever from Local 747 or IBT Entities; and

(5) not to participate in any manner in any of the activities or affairs of Local 747 or any other IBT entities.

We have found the Agreement serves to resolve the matter 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 the 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 and transmit to me a confirmed copy of the Agreement as "so ordered."

By:


John J. Cronin, Jr.
Administrator

Dated: October 22, 2009

-----X
In the Matter of)
ERNEST SOWELL)
before the)
INDEPENDENT REVIEW BOARD)
-----X

AFFIDAVIT AND
AGREEMENT

STATE OF TEXAS)
COUNTY OF HARRIS) ss.:
)

ERNEST SOWELL, being duly sworn, deposes and says, and agrees as follows:

1. 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 (LAP) (S.D.N.Y.) (the "Consent Order") recommended to the IBT that I be charged with embezzling \$251,877.15 from Local 747. On June 23, 2009, the IBT referred the charge back to the IRB for adjudication.

2. I make this Affidavit and Agreement (the "Agreement") to resolve the IRB-recommended charge described in paragraph 1. This Agreement does not constitute an admission or denial of wrongdoing.

3. I represent and agree to the following:

(a) I was a member of the International Brotherhood of

Teamsters ("IBT") and a member of IBT Local 747;

(b) I was the President of Local 747;

(c) I was a Trustee of Joint Council 58;

(d) 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");

4. I hereby agree to a five (5) year suspension from the IBT and Local 747 effective upon the date this Agreement is approved by the IRB ("the effective date"). From the effective date forward until the completion of the suspension term and until compliance with paragraph 5 below, I agree never to hold membership in the IBT. From the effective date forward until the completion of the suspension term and until compliance with paragraph 5 below, I further agree never to hold any position with Local 747 or any employment, office, position or consulting or similar relationship, whether paid or unpaid, with Local 747 and any IBT Entities.

5. I agree that if Local 747 owes me any monies under any currently existing obligation, any such payments shall be reduced by \$251,877.15. In compliance with the May 1, 1991 Order in United States v. IBT, I agree that if Local 747 owes me less than \$251,877.15, I will remain suspended from all IBT positions and

IBT membership until the full \$251,877.15 is offset or directly paid to Local 747; if that amount is not paid by the end of my suspension, I will be permanently barred from being a member of, employee of or consultant for the IBT.

6. I agree that nothing in this Agreement shall affect any claims that I may have or any claims Local 747 and the IBT may assert against me. This Agreement is to settle the outstanding IRB-recommended charge and is not of any evidentiary value in any other proceeding.

7. From the effective date of this Agreement forward until the completion of the suspension term and until compliance with paragraph 5 above, Local 747 and any other IBT Entities shall not pay to me, nor shall I accept, any salary, allowance, fee or compensation of any kind, except that I may receive any fully vested pension benefits.

8. From the effective date of this Agreement forward until the completion of the suspension term and until compliance with paragraph 5 above, Local 747 and any other IBT Entities shall not make, nor shall I accept, any contributions on my behalf to any pension, health and welfare, severance or other benefit fund. From the effective date of this Agreement forward until completion of the suspension term and until compliance with paragraph 5 above, I will receive no gratuities, severance payments or gifts of any kind whatsoever from Local 747 or IBT

Entities.

9. From the effective date of this Agreement forward until the completion of the suspension term and until compliance with paragraph 5 above, I shall not participate in any manner in any of the activities or affairs of Local 747 or any other IBT Entities, including, but not limited to, meetings, discussions, consultations, negotiations, votes or any other business or activity of Local 747 and IBT Entities.

10. This Agreement is permanent.

11. I understand and agree that this Agreement will be submitted to the IRB for its review and, if approved by the IRB, it will be submitted to the United States District Court for the Southern District of New York for 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. If this Agreement is not approved by the IRB or the United States District Court for the Southern District of New York, the Agreement will be null and void.

12. I make this Agreement freely, under no duress or coercion of any kind.

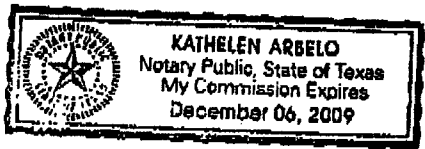
13. I will transmit this Agreement, signed by me, to the

IRB. If it is signed by the IRB, it will be submitted to the Court for review.

Ernest Sowell
ERNEST SOWELL

Sworn to before me this
day of *8th* *Oct* 2009

Kathleen Arbelo
Notary Public



APPROVED:

Jeff Arbelo
for the Independent Review Board

Dated: *10/22/09*

So Ordered:

Loretta A. Preska
Hon. Loretta A. Preska
U.S. District Judge

Dated: *October 30, 2009*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,
Plaintiff,

v.

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, et al.

Defendants.

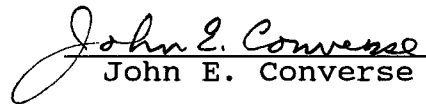
88 CIV. 4486 (LAP)
AFFIDAVIT OF SERVICE

John E. Converse hereby deposes and says:

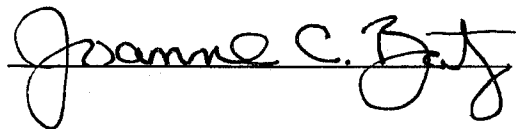
1. I am the Assistant to the Administrator in the office of the Administrator of the Independent Review Board. On October 22, 2009, I caused to be delivered via UPS NEXT DAY to the Honorable Loretta A. Preska one executed original and one copy of Application 138 and the original and one copy of the Acknowledgment of Receipt.

2. I also caused a copy of Application 138 along with the enclosures to be delivered to:

Beth Goldman, AUSA, via UPS Next Day
Charles M. Carberry, Esq., via UPS Next Day
Bradley T. Raymond, Esq., via Hand Delivery
David Van Os, Esq., via UPS Next Day


John E. Converse

Sworn to and subscribed
before me this 22nd day
of October 2009



JOANNE C. BATZ
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires March 14, 2012