

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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| UNITED STATES OF AMERICA | : | 88 Civ. 4486 (DNE) |
| Plaintiff, | : | APPLICATION V OF THE |
| v. | : | INDEPENDENT REVIEW BOARD |
| INTERNATIONAL BROTHERHOOD | : | -- OPINION OF THE |
| OF TEAMSTERS, et al., | : | INDEPENDENT REVIEW BOARD |
| Defendant. | : | IN THE MATTER OF THE |
| | : | HEARING OF MAUREEN RUANE |
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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"), Application is made by the IRB for ruling by the Honorable David N. Edelstein, United States District Judge for the Southern District of New York, on the issues heard by the IRB during a hearing on August 24, 1993, on the charges filed against Maureen Ruane ("Ruane").

Ruane was charged with breaching her fiduciary duties and bringing reproach upon the IBT by paying then Local 854 Secretary-Treasurer Anthony Zappi ("Zappi") a "discretionary" Christmas bonus, without the requisite Executive Board approval and after Ruane was aware that:

- 1) The Investigations Officer had filed a charge against Zappi alleging that he was a member of organized crime; and
- 2) At a hearing before the Independent Administrator, evidence of Zappi's association with members of organized crime had been introduced.

Ruane was also charged with bringing reproach upon the IBT in violation of the IBT Constitution by continuing to cause Local 854 to pay health and welfare premiums and life insurance premiums on behalf of a former Local 854 officer, Frank Dapolito, who was identified as a member of organized crime in the hearing on the charge against Zappi and found to be a member of organized crime by the Independent Administrator in his May 23, 1991, Decision.

Having reviewed the evidence and the Post-Hearing submissions, the IRB found that Ruane did not bring reproach upon the IBT by authorizing the Christmas bonus to Zappi. However, the IRB did determine that the charge was proved that Ruane brought reproach upon the IBT by causing the Local to continue payments on Dapolito's behalf. After consideration of certain mitigating circumstances, the IRB imposed the following sanctions:


- (a) Ruane is to bear her own counsel fees for all of the proceedings commencing with the filing of the charges by the IRB with Joint Council 16 and will not be reimbursed for her payments to the Local in connection with the Dapolito matter; however, she is entitled to be reimbursed by Local 854 for the amount paid by her for the Zappi Christmas payment;
- (b) she is suspended forthwith without pay for a period of six months from performing her duties as President of Local 854; however, the Local is permitted to continue to carry her on its rolls for all benefits, pension, health and welfare, and she is not precluded from non-officer employment.

The IRB did not stay the Opinion or the penalties imposed pending review by Your Honor, as we found it in the best interest of the IBT that Ruane commence the service of her suspension immediately.

Enclosed with the January 28, 1994, Opinion are the following exhibits:

- 1) January 12, 1993, IRB Investigative Report;
- 2) August 24, 1993, Ruane hearing transcript;
- 3) May 5, 1993, Joint Council 16 Decision;
- 4) June 11, 1993, IRB letter to Joint Council 16;
- 5) July 16, 1993, Joint Council 16 Decision; and
- 6) July 22, 1993, IRB letter to Joint Council 16.

It is respectfully requested that an order be entered affirming the IRB's January 28, 1994, Opinion, if Your Honor finds it appropriate.

By: 

Frederick B. Lacey
Member of the
Independent Review Board

Dated: February 3, 1994

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 UNITED STATES OF AMERICA, :
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 Plaintiff, :
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 -against- :
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 INTERNATIONAL BROTHERHOOD :
 OF TEAMSTERS, et al., :
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 Defendant. :
 :
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MEMORANDUM & ORDER
88 Civ. 4486 (DNE)

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 IN RE: APPLICATION V OF THE
 INDEPENDENT REVIEW BOARD
 -----X

EDELSTEIN, District Judge:

This opinion emanates from the voluntary settlement of an action commenced by plaintiff United States of America against, inter alia, defendants International Brotherhood of Teamsters ("IBT") and the IBT's General Executive Board embodied in the voluntary consent order entered March 14, 1989 ("Consent Decree"). Pursuant to the Rules and Procedures for Operation of the Independent Review Board for the International Brotherhood of Teamsters ("IRB Rules"), § 0, the Independent Review Board ("IRB") has made an application to this Court seeking approval of its decision in this matter to be entered, if approved by this Court, as an order of the Court.¹

¹ The IRB is vested with broad investigatory and disciplinary powers. The IRB's investigatory authority is coextensive with that of the General President and the General Secretary-Treasurer under the IBT Constitution and applicable law. See February 2, 1994 Memorandum & Order, 842 F. Supp. 1550, 1551-52 (S.D.N.Y. 1994); see also August 19, 1991 Opinion & Order, 803 F. Supp. 761, 768 (S.D.N.Y. 1992), aff'd in relevant part, 998 F.2d 1101 (2d Cir. 1993). Under the Consent Decree, the IRB must use this authority,

Application V presents for this Court's review the decision of the IRB regarding disciplinary charges brought against Maureen Ruane ("Ruane"), the President and principal officer of IBT Local 854. These charges are contained in an investigative report issued by the IRB on January 12, 1993. Ruane was charged with breaching her fiduciary duties and bringing reproach upon the IBT by paying then Local 854 Secretary-Treasurer Anthony Zappi ("Zappi") a "discretionary" Christmas bonus without the requisite Executive Board approval after Ruane was aware that the Investigations Officer had filed a charge against Zappi alleging that he was a member of organized crime and associated with other members of organized crime, and after evidence of Zappi's links to organized crime had been introduced at a hearing before the Independent Administrator.² Ruane was also charged with bringing reproach upon the IBT by causing Local 854 to pay health and welfare premiums and life insurance premiums on behalf of former Local 854 officer Frank

among other things, to investigate allegations of corruption within the IBT, allegations of influence by La Cosa Nostra or other organized crime groups upon IBT members or activities, and any failure of IBT members or leadership to cooperate fully with the IRB. Id.; see Consent Decree § G(a).

² During the first phase of this litigation, the Consent Decree provided for three Court-appointed officials: the Independent Administrator to oversee the Consent Decree's remedial provisions, the Investigations Officer to bring charges against corrupt IBT members, and the Election Officer who supervised the electoral process that culminated in the 1991 election for International Officers. The charges referred to above were brought by the Investigations Officer against Anthony Zappi during the first phase of this litigation, prior to the implementation of Independent Review Board. These charges were the subject of the Independent Administrator's May 23, 1991 decision, which, in turn, was affirmed by this Court's July 31, 1991 Memorandum and Order, 1991 U.S. Dist. LEXIS 10495, aff'd, 956 F.2d 1161 (2d Cir. 1992).

Dapolito ("Dapolito"); specifically, Ruane is charged with continuing to cause these payments to be made after she became aware that Dapolito had been identified in the Investigations Officer's charges against Zappi as a member of organized crime, and after Dapolito had been found to be a member of organized crime by the Independent Administrator in his May 23, 1991 decision.

At a hearing on August 24, 1993, the IRB found credible Ruane's testimony that she believed both (1) that she had Executive Board approval for Zappi's Christmas bonus, and (2) that Zappi's Christmas bonus was not within her discretion to withhold. The IRB concluded that Ruane did not, therefore, bring reproach upon the IBT by authorizing the Christmas bonus to Zappi. However, the IRB found, by a preponderance of reliable evidence, see IRB Rules, § J.6, that Ruane did bring reproach upon the IBT by causing Local 854 to continue payments on Dapolito's behalf after she was aware that he had been identified as a member of organized crime.

The IRB ruled that (1) Ruane is to bear her own counsel fees for all of the proceedings commencing with the filing of the charges by the IRB with Joint Council 16; (2) Ruane will not be reimbursed for a payment she made from personal funds on December 7, 1992, reimbursing Local 854 for the payment of Dapolito's life insurance premiums and health and welfare premiums since May 1990; (3) Ruane is entitled to be reimbursed by Local 854 for a payment she made from personal funds on December 7, 1992, reimbursing Local 854 for the payment of Zappi's Christmas bonus; (4) Ruane is suspended forthwith without pay for a period of six months from

performing her duties as President of Local 854; (5) Local 854 is permitted to continue to carry Ruane on its rolls for all pension and health and welfare benefits; and (6) Ruane is not precluded from non-officer employment by Local 854. Ruane's counsel has informed this Court that Ruane does not intend to file any objections to the decision of the IRB.

The IRB's findings and rulings are contained in a thirteen page opinion, and are based on evidence presented at a hearing at which Ruane was given the opportunity to present evidence and testimony on her behalf. Having carefully reviewed the IRB's opinion, as well as the exhibits attached thereto, I find that the IRB's decision is not arbitrary or capricious, see IRB Rules, ¶ 0 ("In reviewing actions of the IRB, this Court shall apply the same standard of review applicable to review of final federal agency action under the Administrative Procedure Act."); United States v. IST, 978 F.2d 68, 72 (2d Cir. 1992) ("The APA generally allows the reviewing court to set aside action only when it is arbitrary and capricious, an abuse of discretion or not in accordance with law."). Accordingly, the decision of the IRB is affirmed in its entirety.

SO ORDERED.

DATED: New York, New York
May 6, 1994


U.S.D.J.