

To: Local 806 Trustee Joel LeFevre  
From: Members of the Independent Review Board  
Re: Proposed Charges Against Local 806 Member Ivan Cerina  
Date: March 23, 2000

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## **I. RECOMMENDATION**

The Independent Review Board ("IRB") refers the below report to the Local 806 Trustee for the purpose of filing a charge against Local 806 member Ivan Cerina ("Cerina") for failure to cooperate with the IRB by refusing to appear for his sworn examination on November 22, 1999. By this conduct, it appears that while an IBT member Cerina violated Article II, Section 2(a) and Article XIX, Sections 7 (b)(1) and (2) and Section 14(i) of the IBT Constitution by obstructing, interfering and unreasonably failing to cooperate with the duties of the IRB as set forth in Paragraph G of the March 14, 1989 Consent Decree in United States v. International Bhd. of Teamsters, 88 Civ. 4486 (S.D.N.Y. 1989).

## **II. INVESTIGATIVE FINDINGS**

### **A. Background**

On February 24, 2000, the IRB forwarded a report to the IBT General President with respect to Local 806 (the "IRB Report"). The IRB Report recommended that a trusteeship be imposed. Among other things, the IRB Report reflected that Local 806 had negotiated and entered into sham collective bargaining agreements with certain employers. One of those employers was Cerina Construction, Inc. ("Cerina Construction"). (Ex. 1). At

his November 19, 1999 sworn examination, Local 806 President and principal officer Donald Calagna ("Calagna") testified that he had negotiated a collective bargaining agreement with Cerina Construction and identified Cerina as its owner. (Ex. 2 at 32). Calagna stated that he believed there were three or four Local 806 members employed by Cerina Construction. (Id.). The membership roster of Local 806 identified Cerina and two other Local 806 members as covered by the Cerina collective bargaining agreement. (Ex. 3).

**B. Ivan Cerina**

Local 806 records reflected that Cerina was a member of Local 806 and one of three Local 806 members covered by a collective bargaining agreement with Cerina Construction. (Exs. 3 and 4). On November 8, 1999, a notice of sworn examination was sent to Cerina at 47 Arbor Lane, Dix Hills, New York 11746. This notice advised Cerina that his sworn examination was scheduled for 4:00 p.m. on November 22, 1999. (Ex. 5). At this examination, the Chief Investigator planned to question Cerina about his Local 806 membership, the collective bargaining agreement between Local 806 and Cerina Construction, the union officers responsible for the agreement, whether the Local enforced the terms of the agreement and whether he had any contact with any organized crime figures.

The green certified return card reflected receipt of the envelope containing the notice by Cerina on November 13, 1999. (Ex. 6). Without explanation, on November 22, 1999,

Cerina failed to appear for his sworn examination. (Ex. 7).

On February 3, 2000, a Special Investigator of the Chief Investigator's Office telephoned Cerina at the telephone number of Cerina Construction, (718) 777-8989, and left a message requesting that Cerina return the call. Later that day, Cerina telephoned the office of the Chief Investigator. Cerina told the Special Investigator that he had received the notice of sworn examination, was the owner of a small business and did not have the time to appear for a sworn examination. Cerina further stated that he was happy with his medical benefits. Advised of the consequences of failure to appear and asked if he would appear at another time for his sworn examination, Cerina stated that he and his two employees saw no reason to appear and would not do so. (Ex. 8).

### III. JURISDICTION

Pursuant to Article XIX, Section 14(c)(1) of the IBT Constitution, this disciplinary matter is within the jurisdiction of the Local 806 Trustee. Paragraph G(e) of the March 14, 1989 Consent Decree in United States v. International Bhd. of Teamsters, 88 Civ. 4486 (S.D.N.Y.) and Paragraph I(6) of the court-approved Rules and Procedures for the Operation of the IRB (the "IRB Rules") require that within 90 days of the IRB's referral of a matter to an IBT entity, that IBT entity must file with the IRB written findings setting forth the specific action taken and the reasons for that action. Pursuant to Paragraph I(9) of the IRB Rules, not meeting this deadline may be

considered a failure to cooperate with the IRB.

#### IV. PROPOSED CHARGE

Based upon the foregoing, it is recommended that the Local 806 Trustee charge Ivan Cerina as follows:

While a member of Local 806 and the IBT, you brought reproach upon the IBT in violation of Article II, Section 2(a) and Article XIX, Sections 7 (b)(1) and (2) and Section 14(i) of the IBT Constitution and obstructed, interfered and unreasonably failed to cooperate with the duties of the Independent Review Board as set forth in Paragraph G of the March 14, 1989 Consent Decree in United States v. International Bhd. of Teamsters, 88 Civ. 4486 (S.D.N.Y. 1989), to wit:

On November 22, 1999, you willfully and without justification refused to appear for your sworn in-person examination pursuant to Paragraph H.3(c) of the Rules and Procedures for Operation of the Independent Review Board for the International Brotherhood of Teamsters.

EXHIBITS ACCOMPANYING REPORT CONCERNING IVAN CERINA

Exhibit No.	Description
Ex. 1	Collective Bargaining Agreement between Local 806 and Cerina Construction, Inc.
Ex. 2	Transcript of sworn examination of Local 806 President Donald Calagna dated November 19, 1999
Ex. 3	Local 806 Membership Roster Concerning Cerina Construction, Inc.
Ex. 4	Local 806 Membership Roster Concerning Local 806 Member Ivan Cerina
Ex. 5	November 8, 1999 Notice of Examination to Ivan Cerina
Ex. 6	United States Postal Service Return Receipt Card reflecting delivery to address of Ivan Cerina on November 13, 1999
Ex. 7	Transcript of November 22, 1999 Proceedings
Ex. 8	Form IRB-2 Memorandum of Special Investigator James Reilly dated February 3, 2000

INDEPENDENT REVIEW BOARD  
444 North Capitol Street, NW, Suite 528  
Washington, DC 20001  
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Corruption Hotline (800) CALL IRB

ID-521

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Administrator:

John J. Cronin, Jr.

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November 13, 2000

James P. Hoffa, General President  
International Brotherhood of Teamsters  
25 Louisiana Avenue, N.W.  
Washington, D. C. 20001-2198

Re: Decision on Charges Against Local 806  
Member Ivan Cerina

Dear Mr. Hoffa:

The Independent Review Board has reviewed your decision of October 13, 2000, in the above captioned matter, and finds the decision to be not inadequate.

Very truly yours,

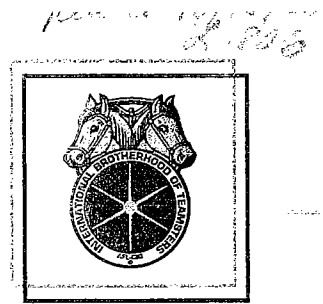
Members of the  
Independent Review Board

By:   
John J. Cronin, Jr.  
Administrator

cc: Patrick J. Szymanski, Esq.  
Mr. Ivan Cerina

INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS

AFL-CIO



OFFICE OF  
JAMES P. HOFFA  
GENERAL PRESIDENT

October 13, 2000

**VIA FACSIMILE AND FIRST CLASS MAIL**

Mr. John Cronin  
Independent Review Board  
444 North Capitol Street, NW, Suite 528  
Washington, DC 20001

Re: Charges Against Ivan Cerina

Dear Mr. Cronin:

This letter is in response to the Independent Review Board's finding that the decision previously issued on charges recommended by the Board against Mr. Cerina is inadequate.

The decision of the hearing panel was based wholly on the facts of his specific case and not on prior IRB precedent. To my knowledge, the facts at issue here were unique in that prior to the panel hearing, Mr. Cerina had attempted to contact the IRB to apologize for his failure to appear at his sworn examination and to express his willingness to cooperate fully. By letter dated April 3, 2000, Cerina notified Chief Investigator Carberry that he would be willing to appear "any place, any time at your convenience to answer questions you may have." Indeed, all of these actions occurred prior to the date that Trustee LeFevre adopted the IRB charge.

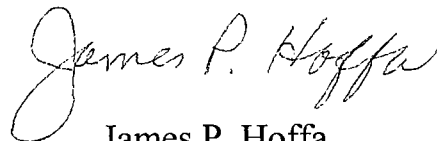
On the basis of Cerina's willingness to cooperate, the charging party, Trustee LeFevre, suggested to the hearing panel that rather than issuing a recommendation on the charge, the panel should instead refer the matter back to the IRB. The July 7, 2000, letter responding to the panel's suggestion referring the matter back to the Board directed the panel to issue findings on the charge but specifically stated that the panel could rely on the unique circumstances of the case to mitigate the penalty. As you know, the panel recommended that rather than suspending Cerina for a short period of time, he should be permanently expelled from membership should he be found to fail to cooperate with the IRB at any time

Mr. John Cronin  
October 13, 2000  
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during the next five (5) years. This appeared to the panel and to me as at least as serious a penalty as the short suspensions that were imposed in the cases cited in the October 3 letter. It was on this rationale that I adopted the recommendation of the panel and issued it as my decision.

Upon reconsideration of this matter, I still believe that the penalty issued to Cerina is appropriate and, perhaps more importantly, that it is even more stringent than the penalty suggested in your letter of October 3, 2000. For example, in your letter, you note that the IRB has consistently determined that an adequate penalty for two (2) failures to appear before the IRB is a six (6) month suspension. Under the penalty issued here by the IBT, Mr. Cerina would be subject to an automatic permanent bar for any second failure to appear. It is my continued belief that an automatic permanent bar for repeated failure to cooperate fully with the duties of the IRB will serve the interests of the March 14, 1989 Consent Decree better than a mere three (3) month suspension. In light of the October 3 letter, however, which finds inadequate the penalty previously imposed, that penalty is vacated and changed to a three-month suspension from membership.

Very truly yours,



James P. Hoffa  
General President

JPH/ndb

cc: Mr. Ivan Cerina  
Hearing Panel Members  
Mr. Joel LeFevre, Trustee, Teamsters Local Union 806  
Charles M. Carberry, Esquire  
Karen Konigsberg, Esquire  
Patrick J. Szymanski, General Counsel