

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,      :
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                                : 88 Civ. 4486 (DNE)
                                :
                                : APPLICATION LIX OF THE
                                : INDEPENDENT REVIEW BOARD
                                : --OPINION OF THE
                                : INDEPENDENT REVIEW BOARD
INTERNATIONAL BROTHERHOOD      :
OF TEAMSTERS, et al.,         :
                                : IN THE MATTER OF THE HEARING
                                : OF VALENTINE N. ORTENSE
                                :
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Defendant.

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Pursuant to Paragraph O. of the Rules of 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 April 13, 1998, and thereafter determined, on the charge filed against Valentine N. Ortense ("Ortense").

Ortense was charged with knowingly associating with Michael Sciarra, a member and associate of organized crime while he was a member of Local Union 560. Having considered the evidence, the IRB found that the charge against Ortense was proved. As a penalty, Ortense has been permanently barred from membership in the IBT and may not hereafter obtain employment, consulting or other work with the IBT or any IBT-affiliated entity.

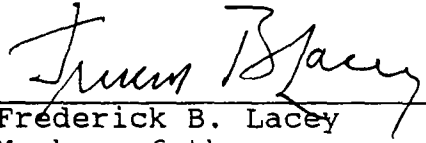
Given the IRB's determination, we do not find it appropriate to stay the Opinion or the penalty imposed pending

review by Your Honor, as we found it in the best interest of the IBT that Ortense immediately be barred from IBT membership.

Enclosed with the May 26, 1998, Opinion are the following exhibits:

- A) December 16, 1997, IRB Investigative Report with exhibits 1-19;
- B) April 13, 1998, Ortense Hearing Transcript with exhibits 1-7.

It is respectfully requested that an Order be entered affirming the IRB's May 26, 1998, Opinion if Your Honor finds it appropriate.

By: 

Frederick B. Lacey
Member of the
Independent Review Board

Dated: May 26, 1998

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 In re: Valentine Ortense : OPINION AND DECISION
 IBT Local Union 560 : OF THE INDEPENDENT
 : REVIEW BOARD
 :
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I. Introduction

On December 16, 1997, the Independent Review Board ("IRB") forwarded an Investigative Report concerning allegations of wrongdoing by Local 560 member Valentine Ortense ("Ortense") to the International Brotherhood of Teamsters ("IBT") Acting General President for appropriate action. (Exhibit A) The IRB report recommended that the IBT file charges against Ortense for bringing reproach upon the IBT by knowingly associating with a member of the Genovese Family of La Cosa Nostra ("LCN"), while an IBT member, in violation of Article II, Section 2(a) and Article XIX, Sections 7(b)(1), (2) and (9) of the IBT Constitution. By letter dated December 19, 1997, the IBT referred the charge concerning Ortense back to the IRB for adjudication. On April 13, 1998, the IRB held a hearing on the charge against Ortense in Washington DC. Ortense failed to appear.¹ We conclude that the evidence at the hearing established that Ortense committed the charged offense.

II. Statement OF Facts

For 28 years, Ortense was a member of IBT Local 560. Ortense knew and associated with Michael Sciarra ("Sciarra"), the former

¹ While he did not appear at the hearing, Ortense had earlier presented sworn testimony before the Local 560 Court-appointed trustee Edwin Stier. References hereinafter to Ortense's testimony relate to that given to Trustee Stier.

Local 560 President, after United States District Judge Dickinson Debevoise permanently enjoined him in 1991 from holding any position of trust within the Local or otherwise attempting to influence its affairs. Judge Debevoise found that Sciarra was the person through whom the Genovese Family sought to effectuate its control over 560. United States v. Local 560, 754 F.Supp. 395, 407-08 (D.N.J. 1991). On November 15, 1995, Sciarra permanently resigned from the IBT after the IRB recommended to the IBT General President that charges be filed against him for aiding the Genovese Family's control over Local 560, being a member of the Genovese LCN Family and knowingly associating with other organized crime members. (IO-3).² After Sciarra's resignation from the IBT, Ortense continued knowingly to associate with Sciarra, knowing that other Local 560 members had been barred from the IBT for associating with Sciarra. (IO-17 at 67, 93-95).

A. Background

1. The Local 560 Trusteeship

In March 1982 a Civil RICO action entitled United States v. Local 560, International Brotherhood of Teamsters, was brought in the United States District Court for the District of New Jersey against IBT Local 560, its officers, Executive Board and members of the so-called "Provenzano Group" which was alleged to have ties to

² "IO" refers to the Chief Investigator's Exhibits, which are submitted with Exhibit A.

the Genovese La Cosa Nostra ("LCN") Family.³ On March 16, 1984, after a five-month trial, United States District Judge Harold Ackerman found that Local 560 was dominated by persons having ties with the Genovese organized crime family, including the Provenzano Group and then Local 560 President Michael Sciarra. United States v. Local 560, 581 F.Supp. 279, 321 (D.N.J. 1984), aff'd, 780 F.2d 267 (3d. Cir. 1985), cert. denied, 476 U.S. 1141 (1986). Judge Ackerman's March 16, 1984, Judgment Order placing Local 560 in trusteeship and removing the Local's Executive Board for these Civil RICO violations, became effective on June 23, 1986, after the exhaustion of the Local's appeals. United States v. Local 560, 581 F.Supp. at 326. The trusteeship imposed on Local 560 is still in effect. Court-appointed trustee Edwin Stier oversees Local 560. (See Id. at 396; IO-1).

2. Sanctions Against Sciarra

The remedial measures which were implemented on June 23, 1986, included the removal from office of Sciarra and the other Local 560 Executive Board members. 581 F.Supp. at 326. In late 1987, the United States sought further relief against Sciarra, charging that during the period Judge Ackerman's Judgment Order had been stayed pending appeal, his racketeering activity had continued. See United States v. Sciarra, 851 F.2d 621 (3d Cir. 1988).

The Sciarra component of the Local 560 litigation proceeded before Judge Debevoise. Between 1988 and 1991, Judge Debevoise

³ The Provenzano Group was said to consist of the following individuals, among others: Anthony Provenzano, Nunzio Provenzano, Thomas Andretta, Stephen Andretta, and Gabriel Briguglio.

issued several rulings affecting Sciarra's Local 560 status. First, in September 1988, Sciarra was enjoined permanently from seeking the presidency of the Local because of the likelihood that, as an officer, Sciarra would "lead Local 560 back into control of the Genovese Crime Family." United States v. Local 560, 694 F.Supp. 1158, 1191-92 (D.N.J. 1988). On May 4, 1990, the preliminary injunction against Sciarra was extended to require his removal from his appointed position as business agent and his debarment from holding any other position of trust within Local 560, as well as a bar against his attempting to influence Local 560's affairs. 736 F.Supp. 601, 612-13 (D.N.J. 1990). Next, by order of January 7, 1991, Judge Debevoise entered a permanent injunction against Sciarra, barring him. In March 1991, Judge Debevoise permanently enjoined Sciarra from holding any position of trust in Local 560 or otherwise attempting to influence the affairs of the Local or its funds. See 754 F.Supp. 395, 407-08 (D.N.J. 1991).

On August 2, 1995, the IRB recommended to the IBT General President that charges be filed against Sciarra for aiding the Genovese Family's control over Local 560, for being a member of the Genovese LCN Family and for knowingly associating with other organized crime members. (IO-2 at 1). On November 15, 1995, Sciarra entered into an agreement with the IRB in which he permanently resigned from the IBT, Local 560 and all IBT-affiliated entities. (IO-3). United States District Judge David N. Edelstein, sitting in the Southern District of New York, approved this

agreement on November 20, 1995.

Allegations of Sciarra's involvement in criminal enterprises persist. Sciarra has been charged in a New Jersey Superior Court indictment as a leader of organized crime who has engaged in conspiracy and racketeering, including participating in and providing direction for illegal gambling activities. (IO-4 at 3-26, 31).

3. Actions Against Ortense

After an investigation, which included a sworn interview of Ortense, the Court-appointed Trustee of Local 560 issued a Decision and Opinion on November 6, 1997, that expelled and barred Ortense from Local 560, prohibited him from holding any position within any bargaining unit represented by Local 560 and permanently enjoined him from attempting to influence the business or affairs of the Local in any way. (IO-5 at 27-28). The Trustee found Ortense had continuously associated with Sciarra, knowing him to have been involved in organized crime, including socializing with Sciarra at a social club that was at the center of criminal activity. *Id* at 26). On November 24, 1997, Judge Ackerman, after not receiving from Ortense any notice of appeal of the Trustee's Decision and Opinion, issued an Order that adopted the Decision and Opinion of the Trustee. (IO-6).⁴

⁴ Although Ortense had been permanently barred from Local 560 and prohibited from holding any position in any entity represented by Local 560, he had not been barred from IBT membership, and he could join or hold office in any other IBT local. Indeed, another Local 560 employee, Andrew Reynolds, did leave Local 560 and take a position with another Local from which he was eventually barred from the IBT by the Independent

On April 13, 1998, the IRB held a hearing on the charges against Ortense. The Chief Investigator entered into evidence exhibits which clearly support the charges against Ortense. FBI Special Agent Brian Taylor also testified, adopting his declaration of July 7, 1995, regarding Sciarra's membership in Organized Crime. (Tr. at 13)⁵. We find Agent Taylor's testimony credible and his qualifications as an expert in Organized Crime outstanding. Ortense did not appear at the hearing, did not present a defense against the subject charge, and did not submit a post-hearing memorandum.

B. Investigative Findings Against Ortense

1. Michael Sciarra's Organized Crime Background

Michael Sciarra was a business agent and member of Local 560 when the Civil RICO case was initiated against the Local in 1982. (IO-11 at 11). Sciarra was a named defendant in the RICO lawsuit. See e.g., United States v. Local 560, 754 F.Supp. 395 (D.N.J. 1991).

Sciarra became President of Local 560 on October 19, 1984. In September 1988, the United States District Court for the District of New Jersey granted the Government's motion to enjoin Sciarra from participating in Local 560 affairs on the grounds that, during the period when the Court's March 1984 sanctions against Sciarra and others were stayed, he continued to facilitate the Provenzano

Administrator. (See IO-7 and IO-8).

⁵ "Tr." refers to the transcript of the IRB Hearing on April 13, 1998, enclosed herewith as Exhibit B.

Group's hold on Local 560. See United States v. Local 560, 694 F.Supp. 1158, 1160 (D.N.J. 1988). The Court found "strong evidence" that Matthew Ianniello⁶, Genovese Family LCN member and caporegime, had hand-picked Sciarra to be the Genovese LCN Family's on-site representative in Local 560. Id. at 1178.

As has been noted, in 1991 Judge Debevoise permanently enjoined Sciarra from holding any position of trust in Local 560 or otherwise attempting to influence the affairs of the Local or its funds. See United States v. Local 560, 754 F.Supp. 395, 407-08 (D.N.J. 1991). The Court's January 7, 1991, Opinion noted that evidence adduced at the July 16, 1990, trial "demonstrated Sciarra's continuing ties to the Genovese Family." Id. at 406. To support its conclusion that Sciarra's organized crime ties had continued, the District Court relied upon Sciarra's testimony on July 7, 1990 (IO-12 at 349-52), that he met on seven occasions from 1987 to July 1990 in Manhattan's Little Italy section with James Ida⁷, a man whom the Court identified as a Genovese Family member and chauffeur to Genovese LCN Family caporegime Matthew Ianniello. Local 560, 754 F.Supp. at 406.

The FBI considers Sciarra to be a "made" member of the

⁶ In a July 27, 1995, declaration, FBI Special Agent Brian F. Taylor noted that based upon reliable and credible information regularly relied upon by the FBI, the FBI considered Matthew Ianniello to be a caporegime in the Genovese LCN Family. (IO-11 at 12).

⁷ James Ida is considered by the FBI to be the acting consiglieri in the Genovese LCN Crime Family. (IO-11 at 17). FBI investigation revealed that Sciarra was one of two witnesses at the marriage ceremony of James Ida and Irene Portelli. (IO-16).

Genovese LCN Family. (IO-11 at 13, 18-19; IO-13; IO-14 at 5). FBI Agent Dennis Marchalonis affirmed that Sciarra became a "made" member of the Genovese LCN Family in the spring of 1990. (IO-14 at 5)..

In 1997, a New Jersey Superior Court Indictment charged Sciarra with being a leader of organized crime, racketeering, conspiracy, and participating and promoting activities for illegal gambling activities. (IO-4). This matter has yet to be resolved.

2. Ortense's Knowing Association with LCN Member Michael Sciarra

It is clear that Ortense has maintained a regular association and friendship with Sciarra that has continued despite Ortense's knowledge of Judge Debevoise's declaration of Sciarra's involvement in organized crime, Sciarra's permanent resignation from the IBT after IRB recommended charges were filed and his rearrest on criminal charges linked to a social club where Ortense and Sciarra frequently met.

3. Ortense's Historical Relationship to Sciarra

According to Ortense, a member of Local 560 for approximately 28 years, he met Sciarra when he was Ortense's business agent in the Local. (IO-17 at 44). Ortense knew of Judge Debevoise's Orders. Indeed, he attended portions of Sciarra's trial because he was a concerned member of the union and Sciarra was his business agent. Id.

4. Ortense's Continued Association with Sciarra

Ortense testified in his sworn testimony before the Chief Investigator that, after Sciarra resigned from Local 560, he

continued his association with Sciarra. Ortense and his wife dined with Sciarra, his wife, and another couple on 5 or 6 occasions, once celebrating Ortense's birthday. (IO-17 at 47-50). In addition to these dinners, since Sciarra's resignation, Ortense had regular weekly contact with Sciarra at a social club located at Fifth and Madison in Hoboken, New Jersey. Ortense admitted meeting Sciarra regularly at the club on weekends, usually on Saturdays, to "relax" and play cards. (Id. 36-7). Occasionally, the two would have lunch near the social club at a local diner, "Chicky's". (Id. at 51).⁸ Ortense denied knowing that Sciarra controlled the club but did admit that he knew that the club had been raided in August 1996 and closed with other clubs because they were believed to be connected to organized gambling activities. (Id. at 61).

Ortense admitted in his sworn testimony that after this social club at Madison and Fifth was shut down, the activities of the club were moved to a new location and a new club a half-block away from the previous location. Ortense maintained his ties to Sciarra with the same weekly regularity at the new social club. (IO-17 at 66). Indeed, as late as the weekend prior to his sworn deposition on August 19, 1997, Ortense met with Sciarra at this new club. (Id. at 67).

5. Ortense Knowingly Associated with LCN Member Sciarra

Ortense continued a knowing and purposeful association with Michael Sciarra even after he knew Sciarra was removed from the

⁸ In the same New Jersey Superior Court Indictment charging Sciarra, this diner is identified as a location where illegal gambling activities were promoted and occurred. (IO-4 at 32).

Local for his involvement with organized crime. (Id. at 93). Ortense regarded Sciarra's removal from Local 560 as "big news" and he read about it in the *Teamster* magazine. (Id. at 82, 93). Ortense was aware of Judge Debevoise's declaration that Sciarra was involved with members of organized crime. (Id. at 83). Despite this knowledge, Ortense continued to regularly meet with Sciarra, knowing that other members of Local 560, including Freddie Mezzina⁹, had agreed to be removed from the Local due to their association with Sciarra. (Id. at 93-95).¹⁰

In addition to the foregoing, numerous metropolitan area newspaper and national magazine articles have consistently reported Sciarra's ties to the Genovese LCN Family and his allegiance to the Provenzano Group (IO-19 passim). Ortense admitted learning from other sources about Sciarra's removal from the IBT in the *Teamster* magazine. In view of the foregoing evidence, we find that Ortense knew of Sciarra's organized crime ties. Nevertheless, Ortense continued his association with Sciarra. Thus we conclude the

⁹ Onofrio "Freddie" Mezzina, a former organizer and business agent of Local 560, entered into an agreement with the IRB to permanently resign from the IBT to settle a charge of knowingly associating with Michael Sciarra. (IO-18).

¹⁰ Ortense maintained that he believed the prohibition to refrain from associating with Sciarra applied only to members who maintained an Executive Board position within the union. (IO-17 at 95). We reject this explanation as not worthy of belief. As United States District Judge David N. Edelstein has stated, union member association with organized crime members is so inherently repugnant as to put all on notice of the wrongfulness of such associations. See United States v. IBT (Cozza), 764 F.Supp. 797 (S.D.N.Y. 1991), aff'd without op., 956 F.2d 1161 (2d Cir. 1992).

evidence established that Ortense brought reproach upon the IBT by knowingly associating with members of the Genovese LCN Family while a member of Local 560.

The test for knowing association that is violative of the Consent Decree is now settled:

[i]n order for the Investigations Officer to sustain his burden of proving a prohibited association with organized crime members, he must show that the contacts in question are purposeful and not incidental or fleeting.

Investigations Officer v. Senese, Decision of the Independent Administrator, slip op. At 35 (July 12, 1990) (citations omitted), aff'd 745 F.Supp. 908 (S.D.N.Y.), aff'd, 941 F.2d 1292 (2d Cir. 1991), cert. denied, 112 S. Ct. 1161 (1992).

Ortense's admissions established the contacts between himself and Sciarra were deliberate and purposeful. Ortense admitted that after Sciarra's removal from Local 560, he continued to regularly associate with Sciarra. This association included dining with Sciarra, his wife and other couples on multiple occasions and weekly contact with Sciarra at a Hoboken social club reportedly controlled by Sciarra. The weekly contact did not end after the Hoboken club was shut down following a police raid and Sciarra's indictment on racketeering charges in New Jersey Superior Court. (IO-4). Ortense testified that after he learned of the shutdown of the social club he continued to see Sciarra on a weekly basis at a new location a half a block away from the closed social club. (IO-17 at 66). Ortense admitted that he had seen Sciarra at the second location just one week prior to his sworn examination by the Local

560 trustee. (IO-17 at 67).

The record clearly establishes the LCN ties of Michael Sciarra. In addition to the finding of Judge Debevoise which found that "Sciarra was the person through whom the Genovese Family sought to effectuate its control" over Local 560, (754 F.Supp, at 395, 309, 407-408), the record establishes that, in the expert opinion of the FBI, Sciarra was a member of organized crime. As Special Agent Brian Taylor credibly testified at the hearing before us, the FBI considers Sciarra to be a Genovese LCN Family member.

Evidence clearly established Ortense's knowledge of Sciarra's organized crime ties: his presence during Sciarra's federal trial and his awareness of Judge Debevoise's declaration that Sciarra was involved with members of organized crime; his awareness that Sciarra's removal from Local 560 was "big news" (which he read about in the *Teamster* magazine); and Ortense's continued association with Sciarra after learning that Mezzina had been removed from the Local because of his knowing and purposeful association with Sciarra. (IO-17 at 93-95, IO-14, IO-18. Furthermore, if more were necessary, given the widespread public information concerning the organized crime connection of Sciarra, Ortense's knowledge of Sciarra's ties with organized crime can be inferred. (IO-19)

III. Conclusion

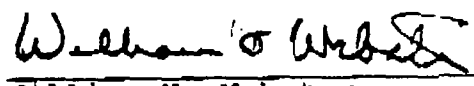
Based upon the foregoing, the hearing evidence established that Ortense brought reproach upon the IBT and violated the IBT Constitution by knowingly associating with members of Organized Crime. Accordingly, Ortense is permanently barred from holding

membership in or any position with the IBT, or any IBT-affiliated entity, in the future. Ortense also may not hereafter obtain employment, consulting or other work with the IBT or any IBT-affiliated entity.

Members of the
Independent Review Board


Grant Crandall

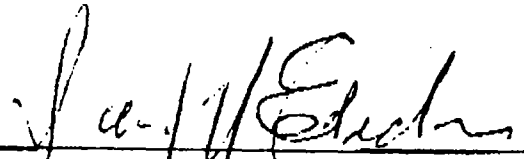

Frederick B. Lacey


William H. Webster

Dated: *May 26, 1998*

SO ORDERED.

Dated: New York, New York
June 4, 1998


DAVID N. EDELSTEIN
U.S. District Judge