

TO: IBT Local 868 Executive Board  
FROM: Members of the Independent Review Board  
RE: Proposed Charges Against Local 868 Member Luis Diaz  
DATE: November 13, 1996

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**I. RECOMMENDATION**

The Independent Review Board refers the below report to the Executive Board of Local 868 for the purpose of initiating charges against Local 868 member Luis Diaz for failing to cooperate with the IRB by refusing to appear for a sworn examination scheduled for September 11, 1996. By failing to appear for his sworn examination, it appears that while an IBT member Luis Diaz violated Article II, Section 2(a) and Article XIX, Section 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 Brotherhood of Teamsters, 88 Civ. 4486 (S.D.N.Y.).

**II. INVESTIGATIVE FINDINGS**

Luis Diaz ("Diaz"), date of birth September 20, 1938, is currently a member of the IBT and Local 868. (Ex. 1) Local 868 is located in New York, New York. Local 868 records reflected that Diaz's dues were paid through September 1996. (Ex. 2) According to Local 868 records, Luis Diaz is the only IBT

member employed at Metro Seliger Industries ("Metro"). (Ex. 3 and 3) Diaz is listed as a driver for Metro. (Ex. 1 and 3) Local 868 advised that Metro's collective bargaining agreement with Local 868 was the National Master Freight Agreement. (Ex. 4)

On August 29, 1996, a notice of Sworn Examination was sent to Diaz by overnight mail to his residence, 26-10 92nd Street, Elmhurst, New York scheduling his sworn examination for September 11, 1996. (Ex. 5) A postal receipt was returned to the Chief Investigator's Office indicating that delivery was made to this location on August 30, 1996. (Ex. 6) On August 30, 1996, Diaz requested a postponement of his sworn examination to a mutually agreed upon date of Saturday, September 14, 1996. (Ex. 7) At this examination, the Chief Investigator planned to question Diaz about his Local 868 membership, his employment at Metro, whether Metro employed any other drivers and whether Diaz was associated with any organized crime figures.

On September 14, 1996, without explanation, Luis Diaz failed to appear for his sworn examination. (Ex. 8)

### III. PROPOSED CHARGES

Based upon the foregoing, it is recommended that Luis Diaz be charged as follows:

While a member of Local 868 and the IBT, you brought reproach upon the IBT in violation of Article II, Section 2 (a) and Article XIX, Section 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 Brotherhood of Teamsters, 88 Civ. 4486 (S.D.N.Y.) to wit:

On September 14, 1996, you wilfully 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 TO REPORT CONCERNING LUIS DIAZ

- Ex. 1      Excerpt from Local 868 Membership List regarding Luis Diaz
- Ex. 2      Local 868 Dues printout for Luis Diaz
- Ex. 3      Local 868 Record of Members currently employed by Metro Seliger Industries
- Ex. 4      Local 868 Record Concerning Metro Seliger Industries Collective Bargaining Agreement
- Ex. 5      August 29, 1996 Notice of Sworn Examination to Luis Diaz
- Ex. 6      Postal Receipt Card concerning Luis Diaz
- Ex. 7      August 30, 1996 Letter to Luis Diaz
- Ex. 8      Record of Luis Diaz's failure to appear for his Sworn Examination

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

ID-123

Chief Investigator:

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New York, NY 10004

Administrator:

John J. Cronin, Jr.

Board Members:

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1825 Eye Street, NW, Suite 1100  
Washington, DC 20006

VIA UPS OVERNIGHT MAIL

October 15, 1997

Mr. Joseph Padellaro, Trustee  
IBT Local 868  
32 West 22nd Street, Third Floor  
New York, NY 10010

Re: Decision on Charges against Local 868 Member  
Luis Diaz

Dear Mr. Padellaro:

The Independent Review Board has reviewed your decision of August 21, 1997, 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: General President Carey  
Earl V. Brown, Jr., Esq.  
David Neigus, Esq.

AFFIDAVIT OF JOSEPH PADELLARO

Joseph Padellaro, under penalty of perjury, swears as follows:

1. I am the Trustee of Local 868, International Brotherhood of Teamsters ("Local 868"). I make this affidavit pursuant to the Rules and Procedures for Operation of the Independent Review Board ("IRB"), and pursuant to the May 22, 1997 letter from the IRB to the Local 868 Executive Board.

2. Upon due consideration, and upon review of the record in this matter, I have decided to adopt the view of the IRB regarding Luis Diaz. Accordingly, by the letter attached as Exhibit A, I have informed Luis Diaz that he is suspended from union membership for a three-month period because of his failure to cooperate with the IRB by failing to appear for his sworn examination on September 11, 1996.

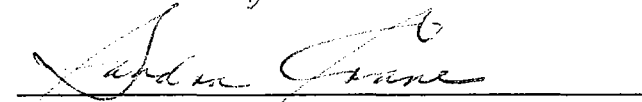
3. Upon due consideration, I have also decided to adopt the recommendation of the IRB regarding Louis DiMaria. Attached as Exhibit B is a charge I have asserted against Mr. DiMaria. Exhibit C is a request by me to General President Carey to appoint a panel to hear the charge.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed at North Andover, Massachusetts this 25th day  
of August 1997.

  
\_\_\_\_\_  
JOSEPH PADELLARO

Sworn to before me this  
25th day of August, 1997

  
\_\_\_\_\_  
My Commission Expires Sept. 30, 1999



# TEAMSTERS LOCAL UNION NO. 868

AFFILIATED WITH THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, AFL-CIO

32 WEST 22ND STREET, 3FL., NEW YORK, NY 10010



MEMBER  
JOINT COUNCIL NO. 16

(212) 989-1280  
FAX: (212) 627-0302

August 21, 1997

Via Express Mail

Mr. Luis Diaz  
26-10 92nd Street  
E. Elmhurst, New York 11369-1712

Dear Mr. Diaz:

I serve as the Trustee of Local 868, International Brotherhood of Teamsters.

On January 13, 1997, the Executive Board of Local 868 found that you had not unreasonably failed to cooperate with the Independent Review Board ("IRB") after you admitted to the Executive Board that you failed to appear for sworn examination on September 11, 1996, because you had apparently forgotten to do so.

By letter dated May 22, 1997 (a copy of which I enclose), the IRB found inadequate the conclusion of the Executive Board that your failure to cooperate was not unreasonable. In the IRB's view, because of your initial failure to cooperate with the IRB, a three-month suspension from union membership would be appropriate.

Accordingly, upon due consideration, and upon review of the record in this matter, I hereby notify you that you are suspended from union membership for a period of three months, effective immediately upon your receipt of this letter.

Sincerely yours,

  
Joseph Padellaro  
Trustee

cc: IRB