

INDEPENDENT REVIEW BOARD
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Chief Investigator:

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

Administrator:
John J. Cronin, Jr.

March 12, 2014

VIA UPS

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

The Honorable William H. Webster
1850 K Street, NW, Suite 1100
Washington, DC 20006

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

Re: APPLICATION 168 OF THE INDEPENDENT REVIEW BOARD

Dear Judge Preska:

I transmit herewith one original and one copy of Application 168 of the Independent Review Board, submitting the Agreement regarding Michael Witek, 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:

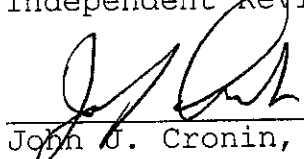
- (a) the March 12, 2014, Agreement approved by the IRB;
- (b) an Acknowledgment of Receipt; and
- (c) an Affidavit of Service.

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

Respectfully submitted,

Members of the
Independent Review Board

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)

JJC:cft

Enclosures

cc: Tara M. La Morte, AUSA
Charles M. Carberry, Esq.
Bradley T. Raymond, Esq.
Michael Witek

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	
	:	88 CIV. 4486 (LAP)
Plaintiff,	:	
	:	APPLICATION 168 OF THE
v.	:	INDEPENDENT REVIEW BOARD
	:	-- AGREEMENT BETWEEN THE
INTERNATIONAL BROTHERHOOD OF	:	INDEPENDENT REVIEW BOARD
TEAMSTERS, <u>et al.</u>	:	AND MICHAEL WITEK
	:	
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 Michael Witek ("Witek"), a member of Local 36 in San Diego, California. 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 December 20, 2014, the IRB issued an Investigative Report to IBT General President Hoffa recommending a charge against Michael Witek, Secretary-Treasurer for Local 36, for breaching his fiduciary duties by failing to protect the Local's property, improperly spending Local funds and exposing the Local to potentially uninsured risk.

On January 6, 2014, IBT General President James P. Hoffa informed the IRB that he determined to adopt and file the Charges

against Witek and schedule a hearing. On February 18, 2014 before a hearing could be scheduled Witek forwarded to the IBT a signed agreement, which the IBT approved and forwarded to the IRB on February 20, 2014, seeking to resolve the matter. The agreement, approved by the IRB, 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 Michael Witek satisfies this procedure. One original and one copy of an Acknowledgment of Receipt are enclosed with this Application for execution by Your Honor.

Effective March 12, 2014 forward, Michael Witek has agreed to: immediately resign from all IBT and affiliated positions, a suspension from membership for a period of 1 year from the effective date of this agreement, and for a period of 1 year from the effective date of this agreement he has further agreed not to:

(1) hold any position with Local 36 or any employment, office, position or consulting or similar relationship, whether paid or unpaid, with Local 36, or any other IBT Entities;

(2) receive any gratuities, severance payments or gifts of any kind whatsoever from Local 36, or IBT Entities; or

(3) accept any pay, salary, allowance, fee or compensation of any kind; except that he may receive any vested or accrued pension, vacation or other existing benefits under any existing

benefit plans or programs maintained or sponsored by Local 36, in addition that he may receive compensation and benefits which accrued prior to the effective date of the agreement including payment for any salary or expenses incurred in connection with his work on behalf of Local 36 prior to the effective date of this agreement in accordance with existing policies and procedures of Local 36

(4) accept any contributions on his behalf to any pension, health and welfare, severance or other benefit fund;

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."

Dated: March 12, 2014

-----X
In The Matter of
MICHAEL WITEK

Before the
INDEPENDENT REVIEW BOARD
-----X

AFFIDAVIT AND AGREEMENT

STATE OF CALIFORNIA) ss.:
COUNTY OF SAN DIEGO) ss.:

Michael Witek, being duly sworn, deposes, says, and agrees as follows:

1. On or about December 20, 2013, 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 (DNE) (SDNY) (the "Consent Order"), recommended that charges be filed against me for bringing reproach upon the IBT in violation of Article II, Section 2 (a) and Article XIX, Section 7 (b) (1) and (2) of the IBT Constitution and Section 13 (A) (18) and 13 (B) of the Local 36 Bylaws by allegedly breaching my fiduciary duties by failing to protect the Local's property, improperly spending Local funds and exposing the Local to potentially uninsured risk.

2. I make this Affidavit and Agreement (the "Agreement") to resolve the IRB charges described in paragraph 1. This Agreement does not constitute an admission or denial of the wrongdoing alleged in the IRB charges.
3. I represent and agree to the following:
 - (a) I have been a member of Local 36 of the International Brotherhood of Teamsters ("IBT") and the IBT since approximately 1984. I have held the positions of Trustee, Business Agent, Recording Secretary and Secretary Treasurer of Local 36 at various times during the period of my membership in Local 36. I currently hold the office of Secretary Treasurer.
 - (b) Other than the foregoing, I have held no other elected or appointed positions or offices of any kind with Local 36, the IBT or any of their affiliated entities, including any other locals, superior bodies, inferior bodies, conferences, councils, committees, divisions, pension, health, welfare or severance plans or other such entities ("IBT entities").
4. I hereby agree that I will resign from all IBT-affiliated positions, including all positions described in paragraph 3, above, effective upon

the date this Agreement is approved by the IRB ("the effective date"). I further agree that from the effective date of this Agreement and for a period of one year my membership in Local 36 and the IBT shall be suspended. I further agree not to seek, accept or hold any position with Local 36 or any employment, office, position or consulting or similar relationship, whether paid or unpaid, with Local 36 or any other IBT entity for a period of one year from the effective date of this Agreement.

5. From the effective date of this Agreement and for a period of one year, neither Local 36 nor any other IBT entities shall pay me, nor shall I accept, any salary, gratuities, gifts, payments, allowances, fees, benefit payments or contributions or any other compensation of any kind, except that I may receive any compensation or benefits which have accrued to me prior to the effective date of this Agreement, including any vested or accrued pension, vacation or other benefits under any existing benefit plans or programs maintained or sponsored by Local 36. In addition, I may receive payment for any salary or expenses I incurred in connection with my work on behalf of Local 36 prior to the effective date of this Agreement in accordance with existing policies and procedures of Local 36.

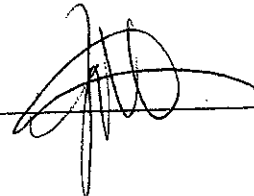
6. For a period of one year from the effective date of this Agreement, Local 36 and other IBT entities shall not make, nor shall I accept, any contributions on my behalf to any pension, health and welfare, severance or other health benefit fund, except as required by any vested benefits to which I am entitled under any existing benefit plans or programs maintained or sponsored by Local 36 or any other IBT entities.
7. I understand and agree that this Agreement will be submitted to the Independent Review Board ("IRB") for its review and approval. 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 the 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 Southern District of New York, this Agreement will be null and void.
8. I make this Agreement freely, under no duress or coercion of any kind.

9. I will transmit this Agreement, signed by me, to the IBT. When it is signed by the IBT and the IRB, it will be submitted to the Court for review.

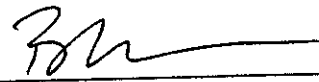

Michael Witek

Sworn to before me this
18 day of February 2014
18 February
Donna Michelle Leon
Notary Public



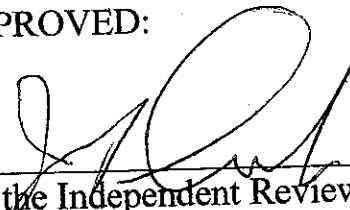
Witnessed 

AGREED:


for the International Brotherhood of Teamsters

Dated: 2/19/14

APPROVED:


for the Independent Review Board

Dated: 3/14/14

So Ordered:

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

Dated: _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	
v.	:	88 Civ. 4486 (LAP)
INTERNATIONAL BROTHERHOOD OF	:	ACKNOWLEDGMENT OF RECEIPT
TEAMSTERS, <u>et al.</u>	:	OF THE AGREEMENT
Defendants.	:	BETWEEN THE INDEPENDENT
	:	REVIEW BOARD AND
	:	MICHAEL WITEK

This Court hereby acknowledges that the Agreement enclosed with Application 168 of the Independent Review Board ("IRB") for the International Brotherhood of Teamsters ("IBT") has been received by this Court, and that this Court has caused to be filed the original documents concerning the Agreement enclosed with Application 168 with the Clerk of the Court of the Southern District of New York.

This Court further certifies that the instant Acknowledgment of Receipt ("the Acknowledgment") has been filed with the Clerk of the Court of the Southern District of New York, and that a copy of the Acknowledgment has been forwarded to the following:

John J. Cronin, Jr.
444 North Capitol Street, NW, Suite 528
Washington, DC 20001
Administrator of the Independent Review Board

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

Bradley T. Raymond, Esq.
International Brotherhood of Teamsters
25 Louisiana Avenue NW
Washington, DC 20001

Michael Witek
5038 San Jacinto Circle East
Fallbrook, CA 92028

Dated: _____, 2014
New York, New York

U.S.D.J.