

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,      :
                                :
                                : 88 Civ. 4486 (DNE)
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                                : APPLICATION LXXXVIII OF THE
                                : INDEPENDENT REVIEW BOARD
                                : --OPINION AND DECISION OF THE
                                : INDEPENDENT REVIEW BOARD
                                : IN THE MATTER OF THE HEARING
                                : OF LARRY STEIN
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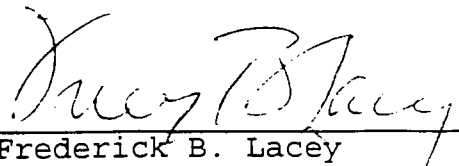
Pursuant to Paragraph O. of the Rules of Procedures for Operation of the Independent Review Board ("IRB") for the International Brotherhood of Teamsters ("IRB Rules"), Application is made by the IRB for ruling by the Honorable Loretta A. Preska, United States District Judge for the Southern District of New York, on the issues heard by the IRB during a hearing on May 22, 2000, and thereafter determined, on the charges filed against Larry Stein ("Stein").

Stein was charged with bringing reproach upon the IBT and violating his oath of membership by maintaining a sham membership. As a penalty, Stein has been permanently barred from holding membership in the IBT and may not hereafter obtain employment, consulting or other work with the IBT or any IBT-affiliated entity.

Enclosed with the October 18, 2000, Opinion and Decision are the following exhibits:

- 1) November 19, 1999, IRB Investigative Report with exhibits 1-10;
- 2) May 22, 2000, Stein Hearing Transcript with IRB's exhibits IRB 1 - IRB 14.

It is respectfully requested that an Order be entered affirming the IRB's October 18, 2000, Opinion and Decision if Your Honor finds it appropriate.

By: 
Frederick B. Lacey
Member of the
Independent Review Board

Dated: October 18, 2000

against Smith and Stein and conducted a hearing on the charges on January 26, 2000. On February 4, 2000, the Local 810 Executive Board issued a decision finding that the charges had not been proven against either Smith or Stein. (IRB Ex. 6, p. 21)

By letter dated March 16, 2000, the IRB notified the Local 810 Executive Board that its February 4, 2000 decision was inadequate. (IRB Ex. 7) By letter dated April 27, 2000, the Local 810 Executive Board informed the IRB that it would take no further action regarding the charges against Smith and Stein. (IRB Ex. 12)

Accordingly, on May 2, 2000, the IRB issued a Notice of Hearing scheduling a hearing on the charges against Smith and Stein for May 22, 2000. (IRB Ex-13) Prior to the hearing, Smith entered into an Affidavit and Agreement in which he agreed to be suspended from all IBT-affiliated positions, except membership, for a period of thirty days. The IRB approved this Affidavit and Agreement and submitted it to United States District Judge David N. Edelstein, who approved it on June 14, 2000.

On May 22, 2000, the IRB held a hearing on the charges against Stein in New York, New York. We conclude that the evidence at the hearing established that Stein committed the charged offense.

II. STATEMENT OF FACTS

A. Background

According to Stein, Compuspace, a computer firm, was incorporated in 1985. (Ex. 2 at 7, 9) Stein was the Vice President of Compuspace and his wife was the Secretary-Treasurer and President. (Ex. 2 at 13-14) Stein and his wife were the sole

owners of Compuspace which solely operated out of their home. (Ex. 2 at 14, 18; Ex. 6 at 27) Stein was its only employee. (Ex. 2 at 16; Ex. 8) Both Stein and his wife had the authority to sign Compuspace checks. (Ex. 2 at 39)

In approximately 1989 or 1990, then Local 810 President Dennis Silverman ("Silverman") hired Stein as a full-time employee to do computer work. (Ex. 2 at 4)² Local records reflected that Stein became a member of the Local in April 1990. (Ex. 1)

Stein testified that prior to Silverman hiring him he did at least one computer project for Local 810. (Ex. 2 at 7)³ Stein testified that he may have billed the Local for this project through Compuspace stating, "I did have my own company called Compuspace. I don't know if I used that company to bill the union or if it was someone else." (Ex. 2 at 7)

Stein's Local membership continued from April 1990 until May 1992 at which time, according to Local records, he was suspended. (Ex. 1) From May 1992 through September 1996, Stein remained suspended. (Ex. 1)

During the time when Stein was suspended from membership, he did work for Local 810 and its Funds, sometimes two or three days

² During his sworn examination, Stein testified that he worked for Local 810. (Ex. 2 at 4) However, Local 810 Secretary-Treasurer Steven Gilman testified that Stein worked for the Local 810 Funds. (Ex. 9 at 14-15)

³ Stein testified that for approximately ten years prior to being employed at the Local he did business with Local 810. (Ex. 2 at 5)

a week. (Ex. 2 at 36-37) Stein testified that Compuspace billed Local 810 approximately \$500 a day for his services. (Ex. 2 at 37)

As detailed below, Stein's Local 810 membership was reinstated in September 1996 after Local 810 President Smith, at Stein's request, entered into a collective bargaining agreement for Compuspace with Stein's wife. (Ex. 1; Ex. 2 at 28-29, 31) Stein was listed in Local records as the only member employed at Compuspace. (Ex. 8) Stein testified that he returned to Local 810 membership because, "I was reactivating my company because of what was going on in the computer industry." (Ex. 2 at 10)

Local 810 records reflected that Stein's dues were paid through May 1999. It appears that after the IBT imposed an IRB-recommended Trusteeship on Local 1034, which was based in part upon sham agreements, Local 810 decided to terminate the sham Compuspace collective bargaining agreement and Stein's union membership.⁴ On February 4, 1999, Local 810's attorney sent a letter to Compuspace notifying the company that Local 810 disclaimed any interest in representing Compuspace employees as of the expiration of the contract on May 31, 1999. (Ex. 5) Stein was issued a withdrawal card on June 1, 1999. (Ex. 1)

⁴ Smith testified that in early 1998, he had a discussion with Local 810 counsel Mike Leiber regarding Compuspace. Smith testified that this discussion took place after the IRB recommended that Local 1034 be placed in Trusteeship based upon, among other things, sham collective bargaining agreements. (Ex. 6 at 25-26, 33) A memorandum dated March 30, 1998 from Leiber to Smith stated that rather than immediately disclaim interest in the Compuspace collective bargaining agreement, the Local should disclaim interest in that agreement at least 60 days before the May 31, 1999 expiration date of the agreement. (Ex. 7)

B. Local 810's Collective Bargaining Agreement with Compuspace and Stein's Sham Membership

In approximately October 1996, Compuspace owner Stein spoke with Local 810 President Smith about entering into a collective bargaining agreement with Compuspace. (Ex. 2 at 10) Local 810 President Smith on behalf of the Local, and Stein's wife on behalf of the company, signed the collective bargaining agreement between Local 810 and Compuspace which covered the period from June 1, 1996 to May 31, 1999. (Ex. 3; Ex. 2 at 28; Ex. 6 at 29-30)

Compuspace owner Stein testified that he wanted to enter into a union contract in order to attract employees to his company. (Ex. 2 at 10, 12) When asked why he thought it would be helpful to his company to enter into a collective bargaining agreement, Stein responded:

[w]ell, because everybody who I knew that was working for someone had, you know, some type of benefit package. They had some type of compensation plan. And working for an individual like myself, I was -- I had always been a freelancer, didn't have stability to it. So I thought that this might, and since I had such experience, I knew Local 810 for like ten years and had a lot of respect for what they did and I thought it was a good thing.

(Ex. 2 at 11)⁵ However, Compuspace never had any employees other

⁵ During his sworn examination, Local 810 President Smith was asked the following questions and provided the following responses:

Q: What did Mr. Stein say to you about why he wanted to be a union member?

A: As best as I could recollect, he knew the organization, he expressed that he was going to grow and that the people that were going to come on board and work for him would enjoy the benefits of being a union member,

than company owner Stein. (Ex. 2 at 16)

Stein testified that in 1996 he and his wife negotiated the terms of the collective bargaining agreement with Local 810 President Smith. (Ex. 2 at 10-11, 13)⁶ Stein testified that he acted on behalf of Compuspace when he negotiated with Smith. (Ex. 2 at 30-31)⁷

would have health benefits and a pension program and he thought it would be a way of bringing good people on board and when you offer people an opportunity to have health benefits and pension benefits and union security.

Q: Did he also tell you that he wanted health benefits and pension benefits for himself?

A: Yes.

(Ex. 6 at 22-23)

⁶ Smith admitted that he never met Stein's wife in person and could not recall her name. (Ex. 6 at 27-28)

⁷ During his sworn examination, company owner Stein testified as follows:

Q: Did you and your wife ever go to Local 810 and talk to anyone about the terms of the agreement marked as Exhibit 1?

A: I don't think my wife did.

Q: At some point, did you go to 810 to talk about the terms of this agreement?

A: Yes.

Q: At that point, were you acting on behalf of Compuspace trying to figure out what the agreement would say?

A: Yes.

(Ex. 2 at 30)

During his May 20, 1999 sworn examination, Local 810 President Smith testified that he

tried to explain to him [Stein] about the difficulties of an employer being a member and he said it was his wife's company and that he would be an employee of the company and I told him that we would give him a contract if they met all our standards. . . .

(Ex. 6 at 21) Smith further testified as follows:

Q: Given that he was telling him -- he was telling you it [Compuspace] was owned by a member of his family, did you inquire as to whether he had any interest in the company?

A: I said to him, if he was the owner, I wouldn't entertain it. He said his wife owned it. I didn't go into whether or not he owned some piece of it or some part of it. I don't know if it's shares. I don't know how it's really formed.

Q: [Why] was it that you told him that, that if he was the owner you wouldn't entertain the contract?

A: Because as a rule, we don't have owners being members of a company where they are the only people that are going to be in the union.

(Ex. 6 at 22)⁸

⁸ During his sworn examination, Smith testified as follows:

Q: When he [Stein] told you that he thought the company was going to grow, did you ever tell him, 'Let's wait for the company to grow and be more than one employee, before we enter into the contract?'

A: He said if it's in place, it will be easier for him to get people. You know, if I can tell somebody coming to work, we have welfare, pension plan, a vacation schedule, holiday, that would appear an easier way to attract a better type of worker.

Q: When you usually negotiate contracts, do you

Through his conversations with Local 810 President Smith, Stein knew that as a company owner and sole employee his union membership was inappropriate. (Ex. 2 at 32) Nevertheless, Stein acknowledged that as an employer he negotiated a contract with Smith through which Stein alone became a union member. There were no restrictions on Stein's membership. As discussed below, there was no delegation to the union of the right to bargain on his behalf as Article XIV, Section 3 of the IBT Constitution required.

The bargaining unit was defined in the Compuspace contract as follows: "[t]he Employer recognizes the Union as the sole and exclusive collective bargaining agent for all employees, except office clericals, non-working supervisors, watchmen and guards as defined in the National Labor Relations Act." (Ex. 3 at 1) At the time that the collective bargaining agreement was entered into and

usually have employees that are in place that are coming to you saying we want union benefits and then you negotiate a contract, is that right?

A: Yes.

Q: Have you ever negotiated a contract in circumstances similar to what happened with Mr. Stein where the husband of the person who was told to you that owns for company says, 'We are going to be hiring people, we want to put together a benefit package that's attractive,' and you entered into an agreement under those circumstances?

A: The answer to the question is no, but the circumstances were that he was there and knew the benefits and kind of wanted to be on the team, I guess.

(Ex. 6 at 30-31)

during the entire term of the agreement, Compuspace Vice President and owner Stein was the only employee of the company. (Ex. 2 at 16)⁹

The collective bargaining agreement between Local 810 and Compuspace provided that the minimum pay for a "systems analyst" was \$15.00 per hour. (Ex. 3 at 11)¹⁰ Local 810 member and company Vice President Stein testified that his title at Compuspace was "consultant." (Ex. 2 at 20)¹¹

Stein testified that he was paid approximately \$500 a week and that Compuspace made contributions on his behalf to the Local 810 Welfare and Pension Funds. (Ex. 2 at 26-27)¹² After reviewing the collective bargaining agreement with Local 810, during his May 1999 sworn examination, Stein claimed that he was paid \$15.00 an hour. (Ex. 2 at 29-31)¹³ Stein had previously acknowledged that when he

⁹ When asked whether there was a shop steward for Compuspace, Stein testified, "Compuspace has one employee, that's me, and I guess based on that, I would be de facto a shop steward." (EX. 2 at 16)

¹⁰ The position of systems analyst was the only job classification included in the section of the contract governing wages. That section of the agreement provided that, "[t]he Employer agrees to meet with the Union to negotiate the minimum hourly rate of pay should it employ individuals in other classifications." (Ex. 3 at 11)

¹¹ When asked what type of work he did for Compuspace, Stein testified, "[s]till a computer consultant, in the area of document management and things like that." (Ex. 2 at 20)

¹² The agreement provided for contributions to be made on behalf of all employees to the Local 810 Health and Welfare and Pension Funds. (Ex. 3 at 7-9)

¹³ Local 810 President Smith testified that he did not know whether Stein was paid an hourly rate. (Ex. 6 at 28)

did work for the Local's funds his billing rate was \$500 a day.
(Ex. 2 at 37)

The agreement provided for \$1.00 per hour wage increases effective June 1, 1997 and June 1, 1998. (Ex. 3 at 11) However, Stein acknowledged that he did not receive these increases that the contract required effective in June 1997 and June 1998. (Ex. 2 at 29; Ex. 3 at 11)¹⁴

There were no restrictions on company owner Stein's union membership. For example, Stein was eligible to vote in Local and International elections. (Ex. 2 at 17)¹⁵

Stein admitted he had acted on behalf of Compuspace when he negotiated the collective bargaining agreement with Smith. (Ex. 2 at 30-31) For example, when asked how the \$15 per hour starting pay was decided, Stein testified,

I can't remember exactly. I think what I wanted to do is set it as low as possible, so

¹⁴ During his sworn examination, Local 810 President Smith testified as follows:

Q: Did you talk to him [Stein] at all about the pay rate that would be in the collective bargaining agreement?

A: As I recall, I was more concerned about the future pay rate of new employees. You have to understand, it was his wife's company, so I assumed she was going to pay him. My concern wasn't with Larry Stein being compensated. It was the looks of the future with the additional members that were supposed to come on board, that they would be properly compensated, classified. This was not a long conversation.

(Ex. 6 at 23-24)

¹⁵ Stein testified that he had voted in a Local election. He also recalled he probably had voted in the International election. (Ex. 2 at 17)

as I brought people into the organization, I wouldn't be saddled with large salaries, and I knew they could always be increased.

(Ex. 2 at 31-32)

We conclude that company owner Stein and Local 810 President Smith colluded to enter into an agreement in which Stein became an unrestricted Local 810 member with full voting rights, and that the hearing evidence established that Stein maintained a sham membership in Local 810. Further demonstrating the sham nature of Stein's union membership, as detailed above, the wage provisions of the agreement did not apply to Stein.

Moreover, the collective bargaining agreement Stein negotiated with Smith would have bound Stein's future employees to an agreement which no non-owner employee had approved. Stein and Smith's explanation for entering into the collective bargaining agreement with Compuspace for future employees to be covered was nonsensical and in itself was a violation of Article XII, Section 1(b) of the IBT Constitution and Article XX, Sections 1 and 3 of the Local 810 Bylaws which required that the affected members approve collective bargaining agreements.¹⁶

¹⁶ Article XII, Section 1(b) of the IBT Constitution provides,

[a]greements shall either be accepted by a majority vote of those members involved in negotiations and voting, or a majority of such members shall direct further negotiations before a final vote on the employer's offer is taken, as directed by the Local Union Executive Board.

Article XX, Sections 1 and 3 of the Local 810 Bylaws provide in pertinent part

In addition, by Stein making the decision that Local 810 would be the exclusive bargaining agent for future employees, no non-owner employee was involved in the selection of the union to represent the workers. By this conduct, Stein appears to have violated Section 8(a)(1) of the National Labor Relations Act ("NLRA") which provides in pertinent part:

It shall be an unfair labor practice for an employer --

(1) to interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in Section 7;

29 U.S.C. §158(a)(1). Section 7 of the NLRA provides in pertinent part:

Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing . . .

29 U.S.C. §157. Here, in apparent violation of the NLRA, Stein, a company owner, selected Local 810 as the exclusive bargaining agent

(1) Whenever a collective bargaining agreement is about to be negotiated, modified or extended at the request of this Local Union, the President shall call a meeting at which the membership shall determine and authorize the bargaining demands to be made . . .

* * *

(3) Ratification of agreements or amendments shall be subject to vote in the same manner as provided for in connection with bargaining demands as set forth in Section 1 hereof . . .

(Ex. 10)

for any future employees of Compuspace.¹⁷

Smith contended he had agreed to the contract because the company intended to hire employees other than the owner Stein. (Ex. 6 at 18-20)¹⁸ Accordingly, the agreement Smith and Stein negotiated would have dictated the terms of employment for any subsequent employees who would have been members of Local 810 and would not have had any say in the terms and conditions of employment. Indeed, Local 810 member Stein testified that when he negotiated the contract with Smith, he was acting on behalf of the company and sought to keep the pay "as low as possible." (Ex. 2 at 31-32)

¹⁷ See, International Ladies Garment Workers Union (Bernhard-Altman Texas Corp.) v. NLRB, 366 U.S. 731, 737-38 (1961) (employer violated Section 8(a)(1) of the NLRA when it granted exclusive bargaining status to a union which did not represent a majority of its employees); NLRB v. Hudson River Aggregates, 639 F.2d 865, 871-72 (2d Cir. 1981) (court affirmed NLRB's finding that successor employer violated NLRA when it recognized a union before the employer "hired a representative complement of employees . . ."); General Cinema Corp., 214 NLRB 1074, 1974 NLRB LEXIS 303, *8-9 (November 20, 1974) (when employer recognized union as the bargaining representative for a classification of employees it had not yet hired, the NLRB held "[t]his constitutes premature recognition in its barest form. It has long been settled that premature recognition or recognition of a nonrepresentative union, absent accretion, unlawfully assists the union, regardless of the employer's good faith or the absence of a question concerning representation.") enforced in part and enforcement denied in part, NLRB v. General Cinema Corp., 526 F.2d 427 (5th Cir. 1976), reh'g denied, 529 F.2d 523 (1976); National Office Supply Company v. IBT Local 810, 1995 NLRB LEXIS 748, *19 (August 7, 1995) (in the context of a company relocation, the NLRB held "[i]t is axiomatic that the recognition of a union prior to the employment of a representative complement of employees, absent accretion, violates Sections 8(a)(1) and (2) of the National Labor Relations Act." (citations omitted)).

¹⁸ Stein testified that he wanted a collective bargaining agreement with Local 810 in order to attract employees to his company. (Ex. 2 at 11)

Furthermore, Stein would not and did not comply with the conditions of membership in Article XIV, Section (3) of the IBT Constitution. That Section requires:

Every member, by virtue of his membership in the Local Union, authorizes his Local Union to act as his exclusive bargaining representative with full and exclusive power to execute agreements with his employer governing terms and conditions of employment and to act for him and to have final authority in presenting, processing and adjusting any grievance, difficulty or dispute arising under any collective bargaining agreement or out of his employment with such employer in such a manner as the Local Union or its officers deem to be in the best interests of the Local Union, all subject to Article XII and other applicable provisions of the International Constitution relating to such matters.


Here, company owner Stein represented the company's interests in the contract negotiations and Local 810 President Smith testified that he did not recall Local 810 representing Stein in any way.

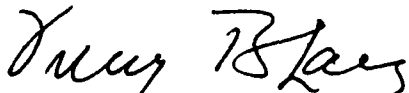
(Ex. 6 at 29)

III. CONCLUSION

Based upon the foregoing, the hearing evidence established that Larry Stein brought reproach upon the IBT and knowingly maintained a sham membership in the IBT in violation of the IBT Constitution. Accordingly, Stein is permanently barred from holding membership in or any position with the IBT, or any IBT-affiliated entity, in the future. Stein 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: October 18, 2000

Rec'd 12/14/00

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :
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 Plaintiffs, :
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 -v- :
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 INTERNATIONAL BROTHERHOOD OF :
 TEAMSTERS, et al., :
 :
 Defendants. :
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MEMORANDUM & ORDER
88 Civ. 4486 (LAP)

LORETTA A. PRESKA, United States District Judge:

WHEREAS on November 18, 1999, the Independent Review Board ("IRB") issued an Investigative Report and forwarded it to the Members of the Executive Board of the International Brotherhood of Teamsters ("IBT") Local 810 recommending charges: (a) against Local 810 President Louis Smith ("Smith") for bringing reproach upon the IBT by entering a sham collective bargaining agreement with former Local 810 member Larry Stein ("Stein"), in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(1) and (2) of the IBT Constitution; and (b) against Stein for bringing reproach upon the IBT by continuing as a member of the Local when ineligible for membership, in violation of Article XIV, Section 3, Article II, Section 2(a) and Article XIX, Section 7(b)(2) of the IBT Constitution; and

WHEREAS by letter dated December 1, 1999, Steven G. Gilman, Secretary-Treasurer of Local 810 ("Gilman"), advised the IRB that the Local 810 Executive Board ("Executive Board") had decided to hold a hearing and adjudicate the charges against Smith and Stein; and

WHEREAS on January 26, 2000, the Hearing Panel Members of Local 810 ("Hearing Panel Members") conducted a hearing at which charges were presented against Smith and Stein; and

WHEREAS on February 4, 2000, the Executive Board issued a Decision ("Decision") finding that the charges had not been proven against either Smith or Stein; and

WHEREAS on March 16, 2000, at the direction of the IRB, John J. Cronin, Jr. ("Cronin"), the IRB administrator, informed the Haring Panel Members, via express mail, that the IRB found the Decision to be inadequate because: (a) an "involved" Local 810 officer, Gilman, chaired the hearing panel, in violation of Article XIX, Section 1(a) of the IBT Constitution; (b) the Decision disregarded the evidence that Stein was not entitled to unrestricted union membership; and (c) the Decision disregarded the pattern of evidence demonstrating the collective bargaining agreement was a sham; and

WHEREAS on April 12, 2000, via express mail, the Hearing Panel Members requested an extension of time to respond to the IRB's findings; and

WHEREAS on April 18, 2000, via express mail, Cronin informed the Hearing Panel Members that the IRB had granted the Hearing Panel an extension until April 30, 2000 to respond to the IRB findings; and

WHEREAS on April 27, 2000, via express mail, the Hearing Panel Members informed the IRB that it believed the Hearing Panel had pursued the matter in a lawful, responsible and timely manner, that it had conducted a fair and impartial hearing and had reached an appropriate decision, and that therefore the Executive Board would take no further action regarding the matter; and

WHEREAS on May 2, 2000, by UPS overnight letter, Cronin informed Smith and Stein that a hearing was scheduled for May 22, 2000, at 10:00 a.m., at the law offices of LeBoeuf, Lamb, Greene, & MacRae, 125 West 55th Street, 19th Floor, New York, NY; and

WHEREAS on May 3, 2000, by UPS overnight letter, Cronin confirmed Stein's telephone call and Cronin's response that attendance at the hearing was Stein's decision; and

WHEREAS, prior to the scheduled hearing, Smith entered into an Affidavit and Agreement, later approved by the IRB and submitted as IRB Application LXXXI to United States District Judge David N. Edelstein, who, by Order of June 14, 2000, approved the Affidavit and Agreement, by which Smith agreed to a suspension from all IBT-affiliated positions, except membership,

for a period of thirty days; and

WHEREAS on May 22, 2000 the noticed hearing went forward before the IRB and Stein did not attend, did not submit any papers in his behalf, and was not represented at the hearing; and

WHEREAS at the hearing, the IRB reviewed evidence, including the 1999 testimony of Stein, Smith, and Gilman and various documents relating to the agreement between Local 810 and Stein; and

WHEREAS by Application LXXXVIII, dated October 18, 2000, upon finding the evidence established that Stein brought reproach upon the IBT and knowingly maintained a sham membership in the IBT in violation of the IBT Constitution, the IRB issued an Opinion and Decision permanently barring Stein from holding membership in or any position with the IBT or any IBT-affiliated entity and from obtaining employment, consulting or other work with the IBT or any IBT-affiliated entity; and

WHEREAS by Order dated November 2, 2000, this Court offered Stein the opportunity to submit written objections to IRB Application LXXXVIII no later than ten business days from the date of the Order; and

WHEREAS Stein never submitted any objections to Application LXXXVIII to this Court; and

WHEREAS having reviewed the IRB's October 18, 2000 Opinion and Decision and all accompanying exhibits, this Court finds that

the charge against Stein has been proven by a preponderance of the evidence; and

WHEREAS having reviewed the sanctions imposed by the IRB, this Court finds that the sanctions are proportionate to the severity of the misconduct of which Stein is guilty; and

WHEREAS accordingly, this Court finds that Application LXXXVIII of the IRB should be granted;

IT IS HEREBY ORDERED THAT Application LXXXVIII of the Independent Review Board regarding the charges and sanctions imposed against Larry Stein is GRANTED.

SO ORDERED.

Dated: *December 7, 2000*
New York, New York


U.S.D.J.