

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 LIV OF THE
:                               : INDEPENDENT REVIEW BOARD
:                               : --OPINION OF THE
:                               : INDEPENDENT REVIEW BOARD
INTERNATIONAL BROTHERHOOD      :
OF TEAMSTERS, et al.,         : IN THE MATTER OF THE HEARING
:                               : OF JOSEPH LODOLCE
:                               :
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Pursuant to Paragraph C. 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 June 4, 1997, and thereafter determined, on the charge filed against Joseph LoDolce ("LoDolce").

LoDolce was charged with being a member of organized crime while he was a member of Local Union 398. Having reviewed the evidence and post-hearing submission, by the Chief Investigator, the IRB found that the charge against LoDolce was proved. As a penalty, LoDolce 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.

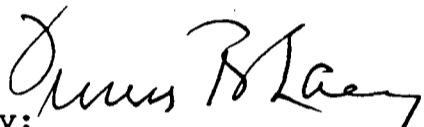
Given the IRB's determination, we do not find it appropriate to stay the Opinion or the penalty imposed pending

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

Enclosed with the September 16, 1997, Opinion are the following exhibits:

- 1) March 19, 1997, IRB Investigative Report (w/exhibits 1-16);
- 2) June 4, 1997, LoDolce Hearing Transcript (w/exhibits 1-6).

It is respectfully requested that an Order be entered affirming the IRB's September 16, 1997, Opinion if Your Honor finds it appropriate.

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

Dated: September 16, 1997

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 In re:       JOSEPH LoDOLCE               :  
               IBT Local Union 398       :  
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OPINION AND DECISION  
 OF THE INDEPENDENT  
 REVIEW BOARD

On March 19, 1997, the Independent Review Board ("IRB") forwarded an investigative report with accompanying exhibits concerning allegations of wrongdoing by Local 398 member Joseph LoDolce ("LoDolce") to the International Brotherhood of Teamsters ("IBT") General President Carey for appropriate action. The IRB report recommended that charges be filed against LoDolce for bringing reproach upon the IBT, and violating his membership oath, by being a member of the Rochester Family of La Cosa Nostra ("LCN") while he was 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 of March 27, 1997, the IBT General President referred the charge concerning LoDolce back to the IRB for adjudication. (Exhibit A)

On April 15, 1997, the IRB mailed to LoDolce's home address, which he gave to the IRB's Chief Investigator at his sworn examination, a notice of hearing on May 13, 1997 (Exhibit B), a copy of the IRB report with the exhibits, and the IRB Rules and Procedures. On April 17, 1997, LoDolce telephoned the IRB to advise that he had received the aforementioned documents, that he would not attend the May 13 hearing, and that he would not defend against the charge. (See Exhibit C)

On April 21, 1997, the IRB advised LoDolce that it had rescheduled the hearing for June 4, 1997, in New York City. (Exhibit D)

On June 4, 1997, the IRB held the hearing on the charges against LoDolce. LoDolce did not attend the hearing nor was he represented at the hearing. Nonetheless, the hearing proceeded, with testimony being taken from FBI Special Agent William Leach. Following the hearing, the IRB set a schedule for filing of post-hearing briefs. The Chief Investigator's brief was received by the IRB on July 2, 1997. The Chief Investigator mailed a copy of his brief to LoDolce at the address where previous notices have gone and a copy of the hearing transcript was also transmitted. On July 2, 1997, LoDolce was also advised once again by the IRB of his right to submit a response. (Exhibit E) He declined to do so. (Exhibit F)

Prior to the IRB hearing, in a sworn examination on October 28, 1996, LoDolce had testified that he became a member of the IBT in late 1979. (IO-3 at 4)<sup>1</sup> Thereafter, LoDolce worked on construction projects in the Rochester, New York, area and occasionally, between the late 1970's and late 1980's, he was a Teamster shop steward on union construction projects. (Id. at 5-9) On June 30, 1987, LoDolce was convicted of a federal racketeering conspiracy in United States v. Amico, CR. 87-177L-05, and was sentenced to seven years' imprisonment and a \$15,000 fine. (IO-4)

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<sup>1</sup> Citations to the IRB report exhibits are designated herein as "(IO-\_\_ at \_\_)." Citations to the transcript of the IRB hearing of the charge are designated herein as "(Tr. at \_\_)." Citations to the Leach Declaration (IO-1) exhibits are designated herein as "(Decl. Ex. \_\_)."

While LoDolce was in prison, Local 398 placed him on withdrawal status. (IO-15 at 105) Upon his early release in January 1991, LoDolce returned to Rochester and Local 398. (Id.; IO-3 at 67-68) Local 398 business agents and officers Corinne Lippa and Charles Ross then found work for LoDolce. (IO-3 at 67-68; IO-16 at 106-07; IO-15 at 105)

The FBI considers LoDolce to be a member of the Rochester LCN Family. (IO-1 at 8-11; Decl. Ex. 1-8) The FBI's opinion was presented through Special Agent Leach, a member of the FBI for over twenty years. For the past seventeen years he has conducted organized crime investigations in Rochester, New York. Special Agent Leach was one of several Special Agents assigned to the Russotti prosecution. He reviewed Anthony Oliveri's testimony in Russotti. He was the "case agent" on the Amico prosecution and observed the trial and was in court when Oliveri testified about LoDolce's organized crime membership and activities. (Tr. at 12, 17) Given Special Agent Leach's background and experience, we accept him as an expert on the LCN in Rochester in the years in question and credit his testimony. Review of the testimony of self-admitted LCN member Oliveri in the criminal trials United States v. Russotti, 82 Cr. 156 (W.D.N.Y.) and United States v. Amico, CR 87-177L-05, supports the FBI's opinion. (Tr. at 13-19); see Decl. Ex. 1 at 2727-32, 2751-54, 2770, 2892-99)

In the Russotti and Amico trials Oliveri testified that he and LoDolce were involved in organized crime activities together. (Decl. Ex. 1 at 2727-32, 2751-54, 2770, 2892-99); and that they were inducted into the Rochester LCN Family on the same day in

December 1978. (Decl. Ex. 1 at 2892-99) LoDolce was a member of Rochester LCN Captain Thomas Marotta's "crew." (Id. at 2770) Oliveri attended at least two meetings of members of organized crime that LoDolce also attended. (Id. at 2727-32, 2751-54) In September 1977 (Id. at 2723-32), Oliveri heard LoDolce and other members of the Rochester LCN Family explain that they had assaulted three men, with LoDolce putting a gun in the mouth of a man named Vaccaro. (Id. at 2732) At another meeting in late 1977 or early 1978, Oliveri saw LoDolce at a meeting at the Centurion Restaurant on Goodman Street in Rochester. (Id. at 2751-52) That meeting was called by Rochester LCN member Gingello so that he could determine which organized crime members were on his side in an internal power struggle between Rochester LCN members. (Id.; see Tr. at 18) Oliveri also testified that in June 1978 he, LoDolce and others, in separate cars, had trailed a woman named Karen Cleveland to the Exit 45 Motel in Victor, New York. (Decl. Ex. 1 at 2834) She was Rochester LCN member Thomas Didio's girlfriend. (Tr. at 18-19; Decl. Ex. 1 at 2815, 2824-26, 2830-34) One week later Didio was murdered at that motel. (Tr. at 18-19; Decl. Ex. 1 at 2731-34)

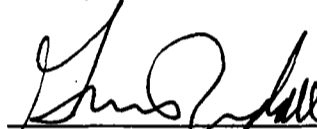
LoDolce's organized crime membership is also suggested by other facts. LoDolce's conviction in Amico was for his part in a criminal enterprise. LoDolce's conduct in Amico involved his running gambling operations and extorting gambling operations for the Rochester LCN Family. (Decl. Ex. 3 at 2-3, 30-33, 43-49) In the absence of evidence to the contrary, it will be assumed that LoDolce continues to be an LCN member.

It is also noted that LoDolce's organized crime membership was previously discussed in litigation under the Consent Decree. On March 12, 1992, the Independent Administrator (now a member of the IRB) concluded that LoDolce was an organized crime member. (IO-9 at 11) In May 1991 the Investigations Officer charged Local 398 member John Trivigno with associating with seven organized crime members, including LoDolce. (Id.) Evidence of LoDolce's organized crime membership was presented during a hearing before the Independent Administrator. (Id. at 1, 11; IO-7 at 18, 21, 23) That evidence included the Declaration of FBI Special Agent Robert D. Ulmer. (IO-7 at 18, 21, 23) In support of the FBI's opinion concerning LoDolce's organized crime membership, Ulmer relied on Oliveri's trial testimony discussed above. (Id.) On March 12, 1992, the Independent Administrator found that, while he was a Teamster, Trivigno had associated with seven organized crime members including LoDolce. (IO-9 at 5-13)

**CONCLUSION**

The undisputed evidence established the charge that Joseph LoDolce brought reproach upon the IBT and violated the IBT Constitution through his organized crime membership. Accordingly, LoDolce is permanently barred from holding membership in or any position with the IBT, or any IBT-affiliated entity, in the future. LoDolce also may not hereafter obtain employment, consulting or other work with the IBT or any IBT-affiliated entity.

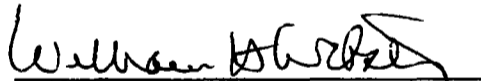
Members of the  
Independent Review Board



Grant Crandall



Frederick B. Lacey



William H. Webster

Dated: September 16, 1997



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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: UNITED STATES OF AMERICA, :  
: :  
: Plaintiff, :  
: :  
: -v- :  
: INTERNATIONAL BROTHERHOOD OF :  
: TEAMSTERS, et al., :  
: :  
: Defendants. :  
-----X

MEMORANDUM & ORDER  
88 CIV. 4486 (DNE)

EDELSTEIN, District Judge:

WHEREAS on March 19, 1997, the IRB sent an investigative report with accompanying exhibits concerning allegations of wrongdoing by Local 398 member LoDolce to the IBT's General President recommending that charges be filed against LoDolce for bringing reproach upon the IBT, and violating his membership oath by being a member of the Rochester Family of La Cosa Nostra while he was 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; and

WHEREAS the IBT General President, by letter dated March 27, 1997, referred the charge concerning LoDolce back to the IRB for adjudication; and

WHEREAS the IRB mailed to LoDolce a notice of hearing scheduled for May 13, 1997, a copy of the IRB report along with exhibits, and the IRB Rules and Procedures; and

WHEREAS on April 17, 1997, LoDolce advised the IRB that he had received the aforementioned documents, and that he would not attend the May 13 hearing, nor would he defend against the charge; and

WHEREAS the hearing was subsequently rescheduled for June 4, 1997, in New York City; and

WHEREAS LoDolce was notified on April 21, 1997, of the change of date for the hearing; and

WHEREAS the IRB held the hearing as scheduled on the charges against LoDolce and LoDolce did not attend and was not represented at the hearing; and

WHEREAS the hearing proceeded with testimony taken from FBI Special Agent William Leach in which Special Agent Leach expressed the reasons for FBI's belief that LoDolce is a member of the Rochester La Cosa Nostra Family; and

WHEREAS following the hearing, the IRB set a schedule for filing of post-hearing briefs; and

WHEREAS the IRB received the Chief Investigator's brief on July 2, 1997, a copy of which was mailed to LoDolce; and

WHEREAS LoDolce was notified of his right to submit a response but declined to do so; and

WHEREAS in an Opinion & Decision dated September 16, 1997, the IRB found that "[t]he undisputed evidence established the charge that Joseph LoDolce brought reproach upon the IBT and violated the IBT Constitution through his organized crime membership," IRB Opinion & Decision re: Joseph LoDolce at 6; and

WHEREAS as a result, the IRB decided that the appropriate sanctions were to permanently bar LoDolce "from holding membership in or any position with the IBT, or any IBT-affiliated entity in the future," and bar LoDolce from obtaining "employment, consulting or other work with the IBT or any IBT-affiliated entity," Id.; and

WHEREAS the IRB found that a stay of its decision pending review by this Court was not appropriate as it was "in the best interest of the IBT that LoDolce immediately be barred from IBT membership;" and

WHEREAS on September 16, 1997, the IRB also submitted Application LIV of the Independent Review Board -- Opinion of the Independent Review Board in the Matter of the Hearing of Joseph LoDolce ("Application LIV") to this Court requesting an Order affirming the IRB's September 16, 1997 Opinion & Decision; and

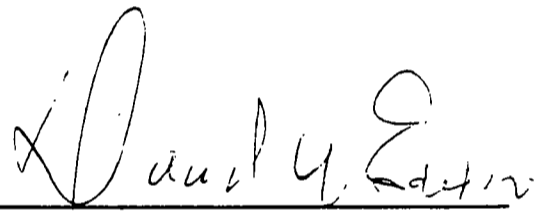
WHEREAS having reviewed the IRB September 16, 1997 Opinion and Decision and all accompanying exhibits, this Court finds that the charge against LoDolce has been proven; and

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 LoDolce was guilty; and

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

IT IS HEREBY ORDERED THAT Application LIV of the Independent Review Board regarding the charges and sanctions imposed on Joseph LoDolce is GRANTED.  
SO ORDERED.

DATED: New York, New York  
September 30, 1997.

  
U.S.D.J.