

INDEPENDENT REVIEW BOARD
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Chief Investigator:

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

Administrator:
John J. Cronin, Jr.

Board Members:
Benjamin R. Civiletti, Esq.
Venable LLP
575 7th Street, NW
Washington, DC 20004

June 28, 2007

Joseph E. diGenova, Esq.
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1776 K Street, NW, Suite 737
Washington, DC 20006

William H. Webster, Esq.
Milbank, Tweed, Hadley & McCloy LLP
1850 K Street, NW, Suite 1100
Washington, DC 20006

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

Re: APPLICATION 127 OF THE INDEPENDENT REVIEW BOARD

Dear Judge Preska:

I transmit herewith one original and one copy of Application 127 of the Independent Review Board, submitting the Opinion and Decision regarding Joseph Pirro, 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 June 28, 2007, Opinion and Decision of 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 of the "backed" Application, Opinion, 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

JJC:cft
Enclosures

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)



cc: Danna Drori, AUSA
Charles M. Carberry, Esq.
✓ Bradley T. Raymond, Esq., IBT General Counsel
Joseph Pirro

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	88 CIV. 4486 (LAP)
	:	
v.	:	APPLICATION 127 OF THE
	:	INDEPENDENT REVIEW BOARD
	:	-- OPINION AND DECISION OF
INTERNATIONAL BROTHERHOOD OF	:	THE INDEPENDENT REVIEW
TEAMSTERS, <u>et al.</u>	:	BOARD IN THE MATTER OF
	:	JOSEPH PIRRO
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"), Application is made by the Independent Review Board ("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 January 10, 2007, and thereafter determined, on the charge filed against Joseph Pirro ("Pirro"), a member of IBT Local 456.

Pirro was charged with bringing reproach upon the IBT and violating his membership oath while a member of the IBT, from at least 2003 to approximately January 2005, by knowingly associating with Gregory DePalma, a member of organized crime. The evidence established just cause for the IRB to find that the charge against Pirro was proved.

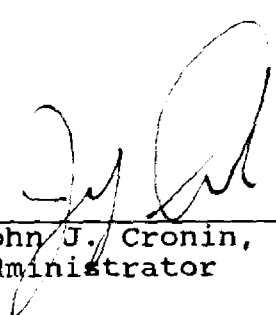
As a penalty, Pirro has been permanently barred from holding membership in or any position with the IBT or any IBT-affiliated

entity. Pirro and any business owned by or in which Pirro has a financial interest are permanently barred from seeking or obtaining employment, office, contracts, consulting or other work or similar relationship, whether paid or unpaid, with the IBT or any IBT-affiliated entity. In addition, Pirro is permanently barred from seeking or accepting from the IBT or any IBT-affiliated entity any salary, severance payment, allowance, fee, payment for unused vacation, or compensation of any kind except fully vested pensions, compensation and fully vested welfare benefits; and permanently barred from the date of expulsion from having any contributions made on his behalf by any IBT entity to any pension, health and welfare, severance, or other benefit fund.

Enclosed with our June 28, 2007, Opinion and Decision are the November 21, 2006, IRB Investigative Report (Exhibit A) with Appendix to Exhibit A (exhibits 1 to 22), and the January 10, 2007, IRB Hearing Transcript (Exhibit B) with IRB exhibits IRB-1 to IRB-5 (Exhibit C).

It is respectfully requested that an Order be entered affirming the IRB's June 28, 2007, Opinion and Decision if Your Honor finds it appropriate.

By:



John J. Cronin, Jr.
Administrator

Dated: June 28, 2007

-----X
: In re: :
: Local 456 Member Joseph Pirro : OPINION AND DECISION
: OF THE INDEPENDENT
: REVIEW BOARD
-----X

INTRODUCTION

The Independent Review Board ("IRB") forwarded an investigative report to the International Brotherhood of Teamsters "IBT") General President James P. Hoffa ("Hoffa") on November 21, 2006. The report recommended that Local 456 Member Joseph Pirro ("Pirro") be charged with bringing reproach upon the IBT and violating his membership oath in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(1), (2) and (9) of the IBT Constitution and Paragraph E(10) of the March 14, 1989 Consent Order in United States v. IBT, 88 Civ. 4486 (S.D.N.Y.), to wit:

"While a member of the IBT, from at least 2003 to approximately January 2005, you knowingly associated with Gregory DePalma, a member of organized crime."

On November 28, 2006, General President Hoffa adopted and filed the charges against Pirro and, in accordance with past practice with organized crime issues, referred the matter back to the IRB for adjudication. The IRB held a hearing on the charges on January 10, 2007, in New York, New York. Present at the hearing were the members

[REDACTED]

of the Independent Review Board, Benjamin R. Civiletti, Joseph E. diGenova, and William H. Webster. Also present was John Cronin, Administrator of the IRB. Joseph Pirro was present and represented himself, accompanied by his friend, Joanne Friedman.

FINDINGS OF FACT

Evidence in support of the charges was offered by Charles M. Carberry, Chief Investigator for the IRB. FBI Special Agent Natale Parise testified that Gregory DePalma was considered in her expert opinion to be a member of the Gambino organized crime family and that he was a captain or cappo of the family. She testified that there were certain places in which DePalma tended to conduct his business, including the Hebrew Geriatric Home located in New Rochelle in Westchester County, New York. His son, a resident of the home, was in a coma and DePalma could use his room to conduct business and thus avoid law enforcement detection. He also used the Imperia Brothers' yard which is located in the Bronx.

Pirro became a member of the IBT and Local 456 in October 2001. He admitted repeatedly intentionally meeting with DePalma while an IBT member. DePalma was a member of organized crime and that membership was notorious. Pirro admitted to knowing that DePalma was involved with organized crime. Pirro was introduced to DePalma by a mutual friend who had recently been released from prison. All meetings with DePalma were intentional. These contacts were not

disputed. At these meetings Pirro frequently discussed with DePalma ways in which DePalma could be helpful to Pirro and certain of his friends needing various kinds of assistance.

Pirro does not dispute the evidence of these associations. His sole defense is that he did not know that such associations were prohibited by the IBT Constitution and the RICO Consent Order entered into between the United States and the IBT in March 1989.

While Pirro left school in the ninth grade, he can read and write. He testified that he had not read the pertinent provisions of the IBT Constitution and the Consent Order and that he did not read the **Teamster Magazine** which contains numerous verbatim decisions involving such violations. This defense is without merit and Pirro's testimony lacks credulity. Even before the March 14, 1989 Consent Order and the amendments to the IBT Constitution explicitly prohibiting such associations, it was held that a member's association with members of organized crime violated the IBT Constitution's prohibition against members engaging in conduct that brings reproach to the Union. See United States v. IBT (Senese), 941 Fed.2d 1292, 1296 (2d Cir. 1991) cert. denied 502 U.S. 1091 (1992). Furthermore, a member of the Union is under a contractual obligation to be familiar with the Union's Constitution. Hogan v. Brotherhood of Railway Clerks, 629 F.Supp. 1166, 1172 (D.W.Va. 1986). Failure to observe this contractual duty by not reading the Constitution does not obviate the violation.

See also Newgent v. Modine Manufacturing Co., 495 F.2d 1919, 928 (7th Cir. 1974).

In construing when such contacts fall within the prohibition of Union member associations with organized crime members, the test which has consistently been applied is that such contacts shall be intentional, repeated and extensive and not incidental or fleeting. United States v. IBT (DiGirlando), 824 F.Supp. 410, 414 (S.D.N.Y. 1993), aff'd United States v. IBT, 19 F.3d at 821. The contacts and evidence in this case more than meet this standard. "See no evil, hear no evil, speak no evil" has no application here. The charges against Pirro have been proven by a clear preponderance of the evidence.

CONCLUSION

The corruption and mob influence on legitimate union activity which preceded the entry of the March 14, 1989 Consent Order are well known and a part of history. Both the Consent Order and the amended IBT Constitution undertook to draw an unqualified line that would avoid the slippery slope which often starts with small beginnings. Impermissible associations with members of organized crime is a serious offense and there is no precedent for mitigating the consequences based on willful ignorance or inattention to member responsibility.

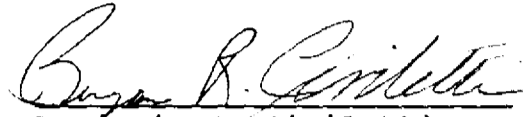
Based on the foregoing, the evidence established beyond the preponderance of the evidence that Joseph Pirro brought reproach upon the IBT and violated the IBT


Constitution and the Consent Order by knowingly associating with a member of organized crime. Accordingly, Pirro is hereby permanently barred from holding membership in or any position with the IBT or any IBT-affiliated entity. Pirro and any business owned by or in which Pirro has a financial interest are permanently barred from seeking or obtaining employment, office contracts, consulting or other work or similar relationship whether paid or unpaid with the IBT or any IBT-affiliated entity. Pirro is permanently barred from seeking or accepting from the IBT or any IBT-affiliated entity any salary, severance payment, allowance, fee, payment for unused vacation or compensation of any kind except fully vested pensions, compensation and fully vested welfare benefits, and he is permanently barred from the date of expulsion from having any contributions made on his behalf by any IBT entity to any pension, health and welfare, severance or other benefit fund.

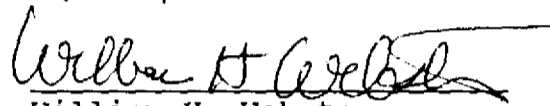
Dated: June 28, 2007

Respectfully submitted,

Members of the
Independent Review Board


Benjamin R. Civiletti


Joseph E. diGenova


William H. Webster

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	88 CIV. 4486 (LAP)
	:	
v.	:	ACKNOWLEDGMENT OF RECEIPT
	:	OF THE OPINION AND
INTERNATIONAL BROTHERHOOD OF	:	DECISION OF THE
TEAMSTERS, et al.	:	INDEPENDENT REVIEW BOARD
	:	
Defendants.	:	

This Court hereby acknowledges that the Opinion and Decision of the IRB of Application 127 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 Opinion and Decision of Application 127 of the IRB 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, N.W., Suite 528
Washington, DC 20001
Administrator of the Independent Review Board

Mr. Joseph Pirro
95 Sheldon Road
Wingdale, NY 12594-1838
Respondent

Dated: _____, 2007
New York, New York

U.S.D.J.



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, et al.

Defendants.

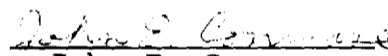
88 CIV. 4486 (LAP)
AFFIDAVIT OF SERVICE

John E. Converse hereby deposes and says:

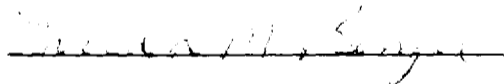
1. I am the Assistant to the Administrator in the office of the Administrator of the Independent Review Board. On June 28, 2007, I caused to be delivered via UPS NEXT DAY AIR to the Honorable Loretta A. Preska one executed original and one copy of Application 127 and the original and one copy of the Acknowledgment of Receipt.

2. I also caused a copy of Application 127 along with the enclosures to be delivered to:

Danna Drori, AUSA, via UPS Next Day
Charles M. Carberry, Esq., via UPS Next Day
Bradley T. Raymond, Esq., via Hand Delivery
Joseph Pirro, via UPS Next Day


John E. Converse

Sworn to and subscribed
before me this 28th day
of June 2007



Linda M. Benzer
NOTARY PUBLIC, DISTRICT OF COLUMBIA
My Commission Expires July 14, 2010

