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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

_____	:	
UNITED STATES OF AMERICA,	:	
	:	88 CIV. 4486 (LAP)
Plaintiff,	:	
	:	APPLICATION 101 OF THE
v.	:	INDEPENDENT REVIEW BOARD
	:	-- OPINION AND DECISION OF
INTERNATIONAL BROTHERHOOD OF	:	THE INDEPENDENT REVIEW
TEAMSTERS, <u>et al.</u>	:	BOARD IN THE MATTER OF
	:	THE HEARING OF
Defendants.	:	JOSEPH VIGLIOTTI
_____	:	

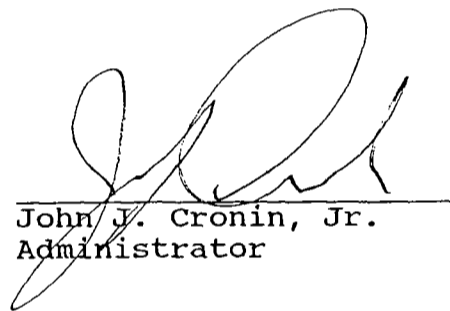
Pursuant to Paragraph O. of the Rules and Procedures for Operation of the Independent Review Board for the International Brotherhood of Teamsters ("IRB Rules"), Application is made by the Independent Review Board ("IRB") for ruling by the Honorable Loretta A. Preska, United States District Judge for the Southern District of New York, on the issues heard by the IRB during a hearing on November 8, 2001, and thereafter determined, on the charges filed against Joseph Vigliotti ("Vigliotti"), a member of IBT Local 813.

Vigliotti was charged with bringing reproach upon the IBT and violating his membership oath by knowingly associating with Peter Gotti, a known member of organized crime. The evidence established just cause for the IRB to find that the charges against Vigliotti were proved. As a penalty, Vigliotti has been permanently barred from holding membership in or any position with the IBT or any IBT-affiliated entity in the future and may not hereafter obtain employment, consulting or other work with the IBT or any IBT-affiliated entity.

Enclosed with our March 21, 2002, Opinion and Decision are the June 12, 2001, IRB Investigative Report with Exhibits 1-23 and the November 8, 2001, IRB Hearing Transcript with exhibits IRB-1 - IRB-7.

It is respectfully requested that an Order be entered affirming the IRB's March 21, 2002, Opinion and Decision if Your Honor finds it appropriate.

By:



John J. Cronin, Jr.  
Administrator

Dated: March 21, 2002

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In re charge against:	:	
Joseph Vigliotti	:	OPINION AND DECISION OF THE INDEPENDENT REVIEW BOARD

**I. INTRODUCTION**

On June 12, 2001, the Independent Review Board (“IRB”) forwarded to the IBT General President an Investigation Report concerning Local 813 member Joseph Vigliotti (“Vigliotti”). The IRB report recommended that a charge be filed against Vigliotti for bringing reproach upon the International Brotherhood of Teamsters (“IBT”). Specifically, it alleged that Vigliotti associated with Peter Gotti, a known member of organized crime. Through this conduct, the IRB claims Vigliotti violated 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 Consent Decree in United States v. IBT, 88 Civ. 4486 (S.D.N.Y. 1989).<sup>1</sup>

On June 6, 2001, IBT General President James Hoffa adopted the IRB’s recommendation and filed charges against Vigliotti, referring them to the IRB for adjudication. The IRB held a hearing on the charges on November 8, 2001, in New York, New York.

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<sup>1</sup> Article II, Section 2(a) requires each member to plead his honor to the IBT. Article XIX, Section 7 provides examples of possible charges against members and officers for which they may stand trial: Section 7(b)(1) includes a violation of any specific provision of the Constitution or Local Union Bylaws; Section 7(b)(2) includes a violation of the Oath of Office or Oath of Loyalty to the Local Union and the IBT; and Section 7(b)(9) includes a violation for knowingly associating with any member or associate of an organized crime family or other criminal group. In addition, Paragraph E(10) of the March 1989 Consent Decree provides that “members and employees of the IBT... are hereby permanently enjoined from ...knowingly associating with any member or associate of” any organized crime family.

We conclude that the evidence at the hearing established that Vigliotti committed the charged offenses. Our opinion and decision follow.

## **II. STATEMENT OF FACTS**

### **A. Vigliotti's IBT Membership**

Vigliotti joined the IBT in May 1976. (Test. at 6).<sup>2</sup> From 1976 through 1998, Vigliotti was a member of Local 1034. (Test. at 6). In May 1998, Local 1034 merged with Local 813. During this time, Vigliotti served as both a driver and a shop steward for various livery services. Vigliotti was a driver and shop steward at the Costarelli Funeral Livery when these charges were filed. (Tr. at 71).

### **B. History of La Cosa Nostra Influence on Locals 813 and 1034**

There is a long history of organized crime within Locals 813 and 1034. Bernard Adelstein, principal officer of Locals 813 and 1034, was charged with knowingly associating with members of La Cosa Nostra ("LCN"), including Gambino Family members, James Failla (a.k.a. Jimmy Brown), Matthew Ianniello (a.k.a. Matty the Horse), and Luchese Family member Anthony Corallo (a.k.a. Tony Ducks). (Exh. 12). Bernard Adelstein was permanently barred from the IBT in 1992. See United States v. Int'l Bhd. of Teamsters, 808 F. Supp. 279 (S.D.N.Y. 1992).

Subsequently, in early 1993, Bernard Adelstein's sons, Martin and Alan, were suspended from the IBT for five years for failing to investigate and act on numerous allegations of Bernard Adelstein's connection with organized crime. (Exh. 15). In the same hearing, Local 813 and

1034 board members James Murray and Michael Giammona were suspended for two years each for the same violation. (Exh. 15).

On August 20, 1997, the General President placed Local 1034 in emergency Trusteeship pursuant to Article VI, Section 5 of the IBT Constitution. (Exh. 16). He did so due to the Local's engagement in a pattern of sham collective bargaining agreements, which allowed owners and employers access to the full rights of IBT membership. (Exh. 16).

**C. Gambino La Cosa Nostra Family**

The Gambino Family is a LCN organized crime group headquartered in New York City. Its members and associates have a history of involvement in organized crime activities, including labor racketeering, gambling, loansharking, theft, fraud, narcotics trafficking, extortion, and murder. (Exh. 6 at 6, Declaration of Special Agent Rita M. Steiner, Federal Bureau of Investigation).

The Federal Bureau of Investigation ("FBI") considered John Gotti the head of the Gambino Family. (Tr. at 21). Salvatore Gravano, a self-admitted member and former Underboss of the Gambino family, also has testified that John Gotti was the head of the Gambino Family. (Exh. 5, Declaration of Salvatore Gravano). *See, e.g., United States v. Locascio*, 6 F.3d 924 (2nd Cir. 1993); *United States v. Gotti*, 171 F.R.D. 19 (E.D.N.Y. 1997).

John Gotti also was identified as a member of the Gambino Family in an exhibit presented at the "Organized Crime: 25 Years After Valachi" hearings of the Senate Permanent Subcommittee on Investigations. (Tr. at 22). *See Organized Crime: 25 Years After Valachi*,

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<sup>2</sup> "Test." refers to the Sworn Testimony of Joseph Vigliotti given on Feb. 6, 2001; "Tr." refers to the transcript of the Nov. 8, 2001 hearing before the IRB; "Exh." refers to the exhibits introduced during the hearing.

*Hearings before the Permanent Subcomm. on Investigations of the Senate Comm. on Governmental Affairs*, 100th Cong. (1988). John Gotti was also publicly identified as the boss of the Gambino Family on an exhibit entitled "Gambino Hierarchy 1987," which was used at those same hearings. (Exh. 6 at 7).

In 1992, John Gotti was convicted of multiple murders, including the murder of the former head of the Gambino Family, Paul Castellano, and racketeering charges and was sentenced to life in prison. See United States v. Gotti and Locasio, CR 90-1051 (E.D.N.Y. 1992).

**D. Peter Gotti**

Based on reliable and credible information regularly relied upon by the FBI, including information from confidential informants and surveillance, the FBI considers Peter Gotti to be the Acting Boss of the Gambino Family. (Tr. at 20). At the November 8, 2001 hearing, FBI Supervisory Special Agent John L. Stubing ("Stubing") testified that the FBI considered Peter Gotti the Acting Boss of the Gambino Family. (Tr. at 19-20). Stubing testified that the remaining members of the Gambino Family placed Peter Gotti in this position following the incarceration of his brother John. (Tr. at 47). See also United States v. Trentacosta, CR 00-6273 (S.D. Fla. 2000) (reporting October 25, 2000 testimony of Agent Stubing identifying Peter Gotti as head of the Gambino Family in a detention hearing for Anthony Trentacosta, Gambino Family member).

Salvatore Gravano, a self-admitted member and former Underboss of the Gambino Family who testified that John Gotti was the head of the Gambino Family, has also publicly testified that Peter Gotti was a Gambino Family captain and that he ran Gene Gotti's crew after

he was sent to prison. See Pietrofeso v. United States, 1994 Ct. Int'l Trade Lexis 57, Slip Op. 94-47 (internal citations omitted).

In 1996, United States District Judge John Martin identified Peter Gotti and numerous others as members of organized crime. See United States v. Local 8104-1, Int'l Longshoremen's Ass'n, 1996 U.S. Dist. Lexis 897; see also Pietrofeso v. United States, 1994 Ct. Int'l Trade Lexis 57, Slip. Op. 94-47 (finding that Peter Gotti was a member of organized crime and thus rejecting his daughter's application for a customs broker's license due to likely influence of persons connected to organized crime). In addition, Peter Gotti was publicly identified as a member of the Gambino Family in an exhibit used in hearings before the Senate Permanent Subcommittee on Investigations. (Tr. at 20). *See Organized Crime: 25 Years After Valachi, Hearings before the Permanent Subcomm. on Investigations of the Senate Comm. on Governmental Affairs*, 100th Cong. (1988). He has also publicly been identified as a member of LCN by numerous newspaper and magazine articles. See, e.g., Thomas Zambito, *Mob Family Down But Not Yet Out*, N.Y. DAILY NEWS (Sept. 29, 2000); Al Guart, *Gotti's Brother Takes over 'Family' Business*, N.Y. POST (Nov. 27, 1999), at 4.

**E. The Bergen Hunt and Fish Club Is a Known Meeting Place of the Gambino Family**

The FBI has identified many of the Gambino Family's meeting places. They include the Ravenite Social Club, the Veterans and Friends Social Club, and the Bergen Hunt and Fish Club. (Exh. 6 at 10). See generally United States v. Gambino, 59 F.3d 353, 367 (2nd Cir. 1995); United States v. Gotti, et al., 42 F. Supp.2d 252, 263-72 (S.D.N.Y. 1999).

The Bergen Hunt and Fish Club ("Bergen Club"), located in Ozone Park, New York, is a private club open only to LCN members, associates, and friends. (Tr. at 22, 39). See, e.g.,

United States v. Local 8104-1, Int'l Longshoremen's Ass'n, 1996 U.S. Dist. Lexis 897; United States v. Massino, 657 F. Supp. 101 (S.D.N.Y. 1987).

The Bergen Club has publicly been identified as a meeting place for Acting Boss Peter Gotti. (Exh. 6 at 10). FBI surveillance has documented Peter Gotti at and around the Bergen Club. (Exh. 6 at 10). Additionally, various newspaper articles reported the Peter Gotti ran his “crew” (a number of LCN members organized into a group) out of the Club. See Gotti Sr. May Still Reign – Via Brother, DESERET NEWS (Oct. 24, 1999), at A02.

**F. Vigliotti's Repeated and Lengthy Association with Peter Gotti**

Vigliotti described his relationship with Peter Gotti as follows: “[We] are very good friends...[and] have been friends many years[.]” (Tr. at 87). Vigliotti testified that he met Gotti more than 25 years ago while he was doing construction work and Gotti was a sanitation worker. (Tr. at 71). Vigliotti stated that he and Gotti have been playing cards together for many years, often at the Bergen Club. (Tr. at 88). The two also frequently visited each other's homes. (Tr. at 87-88).

Vigliotti also admitted meeting and having brief conversations with John Gotti and Eugene Gotti, both former heads of the Gambino Crime Family. (Tr. at 89-92). He was also invited to John Gotti's son's wedding. (Tr. at 83).

**OPINION AND DECISION**

**A. Vigliotti Had Prohibited Contacts with a Member of Organized Crime**

Article XIX, Section 7(b)(9) of the IBT Constitution makes it a violation to knowingly associate with any member or associate of an organized crime family or other criminal group. Paragraph E(10) of the Consent Decree in United States v. IBT, 88 Civ. 4486 (S.D.N.Y. 1989)



provides that “members and employees of the IBT...are hereby permanently enjoined from ...knowingly associating with any member or associate of” any organized crime family.

Prohibited knowing association with a member of organized crime is established when the contact is purposeful, not merely incidental or fleeting. Purposeful contacts are prohibited even if no illegal purposes were demonstrated. Purposeful contacts may occur in either a business or a social setting. See United States v. Int’l Bhd. of Teamsters (DiGirolamo), 824 F. Supp. 410, 414 (S.D.N.Y. 1993), aff’d, 19 F.3d 816 (2<sup>nd</sup> Cir.), cert. denied, 513 U.S. 873 (1994). In the instant case, Vigliotti’s association with Peter Gotti is not disputed. Indeed, Vigliotti testified that he has been “good friends with Peter Gotti” for over 25 years and met with him almost on a weekly basis. (Tr. at 87-88). These meetings generally consisted of dinner and cards at the Bergen Club. (Tr. at 88).

Peter Gotti’s organized crime membership was established by the testimony of FBI Supervisory Special Agent John L. Stubing, which we found credible and uncontradicted. Special Agent Stubing has been a member of the FBI for approximately 24 years. (Tr. at 11). He has spent the majority of his time at the FBI investigating organized crime. In addition, numerous courts have recognized Special Agent Stubing as an expert witness on the Gambino Crime family. (Tr. at 15, 16). We therefore find Special Agent Stubing’s testimony sufficient evidence to conclude Peter Gotti is a member of organized crime.

Vigliotti’s assertions that he was unaware of Peter Gotti’s organized crime involvement are untenable. Various local and national newspapers covered the trial of John Gotti. (Exh. 6). Vigliotti expressly stated that he was aware of the John Gotti trial. (Tr. at 83, 89-90). At that trial, Salvatore Gravano testified that Peter Gotti was the current head of the Gambino Family.

Vigliotti's knowledge of Peter Gotti's membership can also be inferred from the nature of their association. "In the absence of direct evidence of knowledge of the organized crime ties of an associate . . . such knowledge may be inferred from the duration and the quality of association." Investigations Officer v. Senese, Decision of the Independent Administrator, at 37 (July 12, 1990), aff'd United States v. International Bhd. of Teamsters, 745 F. Supp. 908 (S.D.N.Y. 1990), aff'd, United States v. International Bhd. of Teamsters, 941 F.2d 1292 (2<sup>nd</sup> Cir. 1991), cert. denied, 112 S. Ct. 1161 (1992). Here, the duration of Vigliotti and Peter Gotti's association was more than 25 years. (Tr. at 71). Over this time, the two met regularly – two to three times a month – to play cards and dine together at a known Gambino family haunt, the Bergen Hunt and Fish Club. (Tr. at 73-74). They also frequently visited each other's homes. The duration and quality of Vigliotti and Gotti's relationship thus creates the inference that Vigliotti had knowledge of Peter Gotti's ties to organized crime. This finding is bolstered by Vigliotti's admission that he read "plenty of times" that Peter Gotti was involved in organized crime. (Tr. at 75).

**B. IBT Membership Binds Each Member to Obey Its Constitution**

Vigliotti unsuccessfully argues that as he was never administered a membership oath, he cannot be charged. (Tr. at 77). While at first blush this contention may seem plausible, the direct language of the IBT constitution states otherwise. It provides:

Each person upon becoming a member thereby pledges his honor: to faithfully observe the Constitution and laws of the International Brotherhood of Teamsters, and the Bylaws and laws of his Local Union; to comply with all rules and regulations for the government of the International Union; . . . to conduct himself or herself at all times in such a manner as not to bring reproach upon the Union.

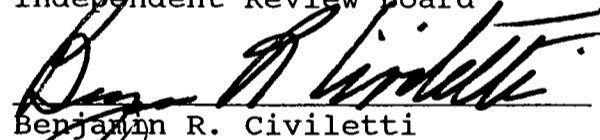
IBT Constitution Section 2(a).

Thus, Vigliotti was bound by the terms of the Constitution when he joined the IBT. This is true irrespective of whether or not he took the oath.

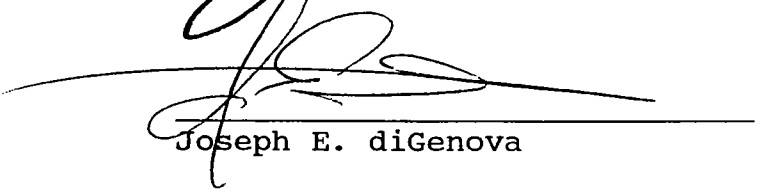
**C. Conclusion**

Based on the foregoing, the evidence has established just cause for the IRB to find that Joseph Vigliotti brought reproach upon the IBT and violated the IBT Constitution and the Consent Decree by knowingly associating with a member of organized crime. Accordingly, Vigliotti is permanently barred from holding membership in or any position with the IBT, or any IBT-affiliated entity, in the future. Vigliotti also may not hereafter obtain employment, consulting or other work with the IBT or any IBT-affiliated entity.


Members of the  
Independent Review Board



Benjamin R. Civiletti



Joseph E. diGenova



William H. Webster

Dated: March 21, 2002

### Endorsement

88 Civ. 4486 (LAP)

United States of America v. International Brotherhood of Teamsters, et. al.

#### A. The Consent Decree

This opinion emanates from the voluntary settlement of an action commenced by the United States of America against, inter alia, the International Brotherhood of Teamsters ("IBT" or "union") and the IBT's General Executive Board. The settlement is embodied in the voluntary consent decree order entered March 14, 1989 ("Consent Decree"). The goals of the Consent Decree are to rid the IBT of the hideous influence of organized crime and to establish a culture of democracy within the union. The long history of this case has been set forth in the Court's numerous prior opinions. Accordingly, only those facts necessary for resolving the instant matter shall be set forth.

Currently before the Court is Application 101 of the IRB, dated March 21, 2002. In Application 101, the IRB requests that the Court affirm the IRB's Opinion and Decision which was issued that same day. For the reasons set forth below, I grant IRB Application 101 and affirm the IRB decision in all respects.

#### B. Facts and the Decision of the Independent Review Board

Joseph Vigliotti joined the IBT in May 1976. (Test. at 6).<sup>1</sup> From 1976 until 1998, Vigliotti was a member of Local 1034. (Id.). In May 1998, Local 1034 merged with Local 813. (Opinion and Decision of the IRB, dated March 21, 2002 ("IRB Decision"), at 2). During this time, Vigliotti served as both a driver and a shop steward for various livery services. (IRB Meeting, dated November 8, 2001 ("IRB Hearing Tr."), at 71).

On June 12, 2001, the IRB issued an investigation report to the IBT recommending disciplinary charges against Local 813 member Joseph Vigliotti. (IRB Decision at 1). On June 6, 2001, IBT General President James Hoffa adopted the IRB's recommendation and filed charges against Vigliotti, referring them to the IRB for adjudication. (Id.). The charges alleged that Vigliotti,

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<sup>1</sup> "Test." refers to the sworn testimony of Joseph Vigliotti given on February 6, 2001.

through his association with a known member of organized crime, Peter Gotti ("Gotti"), violated 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 Consent Decree from United States v. IBT, 88 Civ. 4486 (S.D.N.Y. 1989).<sup>2</sup> (Id.).

On November 8, 2001, the IRB held a hearing to determine whether Vigliotti had violated the terms of the Consent Decree and the IRB Constitution. At this hearing, a number of witnesses testified, including Vigliotti, who testified on his own behalf, and Supervisory Special Agent John L. Stubing, who testified about Peter Gotti's link to organized crime. (IRB Hearing Tr. at 20).

On March 21, 2002, the IRB issued its decision, finding, among other things, that since "Peter Gotti's organized crime membership was established" and "Vigliotti's assertions that he was unaware of Peter Gotti's organized crime involvement was untenable," Vigliotti's undisputed association with Gotti violated the IBT Constitution. (IRB Decision at 7). Vigliotti was permanently barred from holding membership in or any position with the IBT or any IBT-affiliated entity. (Id. at 9).

#### C. Standard of Review

This Court reviews IRB decisions with an "extremely deferential standard of review." United States v. IBT ("Simpson"), 120 F.3d 341, 346 (2d Cir. 1996) (quoting United States v. IBT ("DiGirlando"), 19 F.3d 816, 819-20 (2d Cir. 1994)). More specifically, this Court considers the "IRB's findings of fact

<sup>2</sup> Article II, Section 2(a) of the IBT Constitution requires each member to plead his honor to the IBT. Article XIX, Section 7 provides examples of possible charges against members and officers for which they may stand trial. Specifically, section 7(b)(1) includes a violation of any specific provision of the Constitution or Local Union Bylaws; Section 7(b)(2) includes a violation of the Oath of Office or Oath of Loyalty to the Local Union and the IBT; and Section 7(b)(9) includes a violation for knowingly associating with any member or associate of an organized crime family or other criminal group. In addition, Paragraph E(10) of the March 1989 Consent Decree provides that "members and employees of the IBT . . . are hereby permanently enjoined from . . . knowingly associating with any member or associate of" any organized crime family."

for 'substantial evidence' on the whole record." United States v. IBT ("Giacumbo"), 170 F.3d 136, 143 (2d Cir. 1999). "The substantial evidence test is deferential." Id. "Substantial evidence is 'something less than the weight of the evidence,' DiGirlando, 19 F.3d at 820, but something more than a mere scintilla." Simpson, 120 F.3d at 346 (quoting United States v. IBT ("Cimino"), 964 F.2d 1308, 1311-12 (2d Cir. 1992)). "Substantial evidence includes 'such relevant evidence as a reasonable mind may accept as adequate to support a conclusion.'" Id. (quoting Cimino, 964 F.2d at 1311-12). Moreover, the mere possibility of drawing two inconsistent conclusions from the evidence "does not prevent an administrative agency's finding from being supported by substantial evidence." Consolo v. Federal Maritime Comm'n, 383 U.S. 607, 620 (1966). Because the IRB conducts the disciplinary hearings, it is best equipped to evaluate the demeanor, credibility and, ultimately, the culpability of those who appear before it. United States v. IBT ("Carey & Hamilton"), 247 F.3d 370, 380 (2d Cir. 2001); United States v. IBT ("Carey Disqualification"), 156 F.3d 354, 365 (2d Cir. 1998); see also Cimino, 964 F.2d at 1313 (refusing to re-weight evidence or question credibility determination made by Independent Administrator). Accordingly, the inferences drawn by the IRB from the facts are "discretionary and can only be disturbed if they are 'arbitrary and capricious.'" Giacumbo, 170 F.3d at 143.

#### D. Discussion

Vigliotti raises a number of arguments in his objection to the charges against him, none of which has any merit. Specifically, he argues that: (1) the IRB never established that: (a) Peter Gotti is a LCN member; or (b) Vigliotti knew of this association if it did in fact exist (Objections to the Opinion and Decision of the IRB, dated April 17, 2002 ("Objections") at 3-4); (2) because he never signed the IBT Constitution or read the Consent Decree, he should not be bound by either agreement, (id. at 28); and (3) the sanction imposed on him was disproportionate to sanctions received by "[o]ther Union Officials" whose names were "brought up by the IRB," (id. at 32).

As an initial matter, I note that, in his lengthy memorandum of law, Vigliotti fails to cite a single case in support of any of his arguments. This Court and the Court of Appeals have issued over two hundred reported decisions in this area, establishing the legal standards and settling the law in a number of areas raised by Vigliotti in his objections. His complete

silence with respect to this precedent is particularly deafening given the large volume of decisions issued with respect to the Consent Decree and IRB disciplinary proceedings. See United States v. IBT ("Parise"), 970 F.2d 1132, 1134 (2d Cir. 1992) ("The case law within our circuit swells with decisions emanating from the Teamsters litigation.").

1. Peter Gotti's affiliation with LCN

(a) First, Vigliotti argues that the IBT never proved that Peter Gotti is a member of an organized crime family. (Objections at 3-4). Agent Stubing, however, testified that although the FBI had not yet arrested Peter Gotti at the time of the hearing, it still considered Peter Gotti to be a member of the Gambino LCN family and even the acting boss of the Gambinos. (IRB Hearing Tr. at 19-20). Stubing testified that this information was based on FBI surveillance and confidential informants. (IRB Hearing Tr. at 20). The IRB expressly credited Stubing's testimony. (IRB Decision at 4). I find that the IRB's conclusions with respect to Peter Gotti's affiliations were neither arbitrary nor capricious.

(b) Vigliotti's knowledge

Vigliotti contends that even if Gotti was involved with organized crime, the IRB offered no proof that Vigliotti knew of this connection. (Objections at 4). Vigliotti himself testified, however, that he had read about Peter Gotti's organized crime connections "plenty of times." (IRB Hearing Tr. at 75). Additionally, since Gotti and Vigliotti were close friends for approximately twenty-seven years, (IRB Hearing Tr. at 71), it was entirely proper for the IRB to infer that Vigliotti knew of Gotti's LCN ties due to the "duration and quality of

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<sup>3</sup> On June 4, 2002, subsequent to Vigliotti's hearing, Peter Gotti was indicted on charges of racketeering. William Rashbaum, U.S. Indicts Gottis, Saying They Operated Dock Rackets, N.Y. Times, June 5, 2002, at B1. That arrest, however, has no bearing on this decision because Vigliotti knew even prior to Gotti's arrest of Gotti's association with LCN.

their relationship. United States v. IBT ("Senese and Talerico"), 745 F. Supp. 908, 918 (S.D.N.Y. 1990) (holding that the defendant either knew or should have known that an acquaintance had ties to organized crime). Moreover, much of the interaction between Gotti and Vigliotti took place in the Bergen Hunt and Fish Club, which the FBI considered to be a Gambino Family meeting place. Therefore, applying the deferential standards of this review, this IRB factual finding should not be disturbed.

## 2. The IBT Constitution and Consent Decree

Vigliotti also asserts that because he never signed the IBT Constitution and was not aware of the specifics set forth in the Consent Decree, he should not be bound by the terms of these agreements. (Objections at 32). I reject this argument. The IBT Constitution specifically states that IBT members become bound by the Constitution "upon becoming a member," IBT Const. Art. II, Sec. 2(a), regardless of whether these members formally swear an oath of membership. See DiGirlando, 19 F.3d at 823 ("IBT members were aware that association with organized crime members was prohibited even before the Consent Decree added the provision to the union constitution"). Further, it is well-settled that all members of the IBT are bound by the Consent Decree. See United States v. IBT, 725 F. Supp. 162 (S.D.N.Y. 1990), aff'd, 905 F.2d 610 (2d Cir. 1996).

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<sup>4</sup> As Vigliotti testified, he and Peter Gotti "are very good friends . . . [and] have been friends many years[.]" (IRB Hearing Tr. at 87). Vigliotti also testified that he had known Gotti for over twenty-five years, (id. at 71), they frequently played cards together for many years at the Bergen Hunt and Fish Club, (id. at 88), and they frequently visited each other's homes, (id. at 87-88).

<sup>5</sup> The Bergen Hunt and Fish Club is a private club open only to LCN members, associates and friends. (IRB Hearing Tr. at 22, 39). The FBI has designated the Bergen Hunt and Fish Club as a meeting place for the Gambino LCN family. See generally United States v. Gambino, 59 F.3d 353, 367 (2d Cir. 1995); United States v. Gotti, 42 F. Supp. 2d 252, 263-72 (S.D.N.Y. 1999).



Indeed, despite his protests of ignorance, Vigliotti was well aware of the penalties of association with organized crime. For instance, he testified that he read in Teamster magazine that Bernard Adelstein, the former principal officer of his local union, was permanently barred for associating with known members of organized crime. (IRB Hearing Tr. at 96). Further, Vigliotti testified, he decided not to attend John Gotti Jr.'s wedding because he wanted to avoid association with organized crime members. (IRB Hearing Tr. at 89-90).

3. The IRB's Sanction was Justified

Finally, Vigliotti argues that the punishment he received was disproportionate to other similarly situated violators and the sanctions they received. (Objections at 32). The IRB's choice of sanction, however, may not be overturned unless it is found to be "unwarranted in law or without justification in fact." Carey & Hamilton, 247 F.3d 370, 389 (2d Cir. 2001) (quoting Simpson, 120 F.3d at 348). The IBT Constitution explicitly permits a lifetime ban from membership in the IBT. Id. at 390; United States v. IBT ("Boggia"), 167 F.3d 113, 120 (2d Cir. 1999); DiGirlando, 19 F.3d at 822 (finding a permanent ban from the IBT was an appropriate punishment where an IBT member knowingly associated with LCN members). Moreover, "[u]neven application of sanctions does not normally render the sanctions imposed in a particular case arbitrary and capricious." Giacumbo, 170 F.3d at 144.

E. Conclusion

For all of the foregoing reasons, Application 101 of the IRB is granted and the IRB decision is affirmed in all respects.

SO ORDERED.

August 5, 2002

  
LORETTA A. PRESKA, U.S.D.J.