

TO: Members of the Local 408 Executive Board
FROM: Members of the Independent Review Board
RE: Proposed Charges Concerning Local 408 Member
Marco Minichino
DATE: July 13, 2004

I. RECOMMENDATION

The Independent Review Board ("IRB") refers the below report to the Local 408 Executive Board recommending that charges be filed against Local 408 member Marco Minichino ("Minichino") for failing to cooperate with the IRB by refusing to appear for his scheduled IRB sworn examination on June 22, 2004. By his actions, it appears that, while an IBT member, Minichino violated Article II, Section 2(a) and Article XIX, Section 7(b)(1) and (2) and Section 14(i) of the IBT Constitution by obstructing, interfering and unreasonably failing to cooperate with the duties of the IRB as set forth in Paragraph G of the March 14, 1989 Consent Order in United States v. International Brotherhood of Teamsters, 88 Civ. 4486 (S.D.N.Y.) ("Consent Order").

II. JURISDICTION

Pursuant to Article XIX, Section 14(c) of the IBT Constitution, this disciplinary matter is within the original jurisdiction of the Local 408 Executive Board. Paragraph G(e) of the March 14, 1989 Consent Order in United States v. International Brotherhood of Teamsters, 88 Civ. 4486 (S.D.N.Y.) and Paragraph I(6) of the court-approved Rules and Procedures for

Operation of the IRB ("IRB Rules") require that within 90 days of the IRB's referral of a matter to the IBT entity, that entity must file with the IRB written findings setting forth the specific action taken and the reasons for that action. Pursuant to Paragraph I(9) of the IRB Rules, not meeting this deadline may be considered a failure to cooperate with the IRB.

III. INVESTIGATIVE FINDINGS

A. INTRODUCTION

The IRB staff was conducting an investigation into allegations that Minichino associated with members of the Luchese La Cosa Nostra ("LCN") family. The background to the allegations included the following. In August 1985, Minichino and twenty-five alleged members and associates of the New Jersey faction of the Luchese LCN family were indicted on federal racketeering charges. (Ex. 1)¹ Minichino was charged with acts of gambling and loan sharking. In 1987, Minichino pled guilty to involvement in gambling rackets and was sentenced to five years imprisonment. (Ex. 2)²

¹ In addition to Minichino, the other individuals who were indicted were Anthony Accetturo, Michael Taccetta, Robert Caravaggio, James Fede, Martin Taccetta, Michael Perna, Thomas Ricciardi, Alfonse T. Cataldo, Jerome Voglino, Robert Spagnola, James Gammero, Frank Benedetto, Michael Ryan, Donald Cross, Walter Esposito, Marianne Esposito, Joseph Licata, Gerald Cohen, Frank Suppa, Gerald DeLuca, Giacomo DiNorscio, Victor Cantillo, Manuel Montiero, John Redman and Daniel Ricciardi. (Ex. 1)

² Minichino and Suppa pled guilty. Three others were severed from the trial for medical reasons. (Ex. 2) The other 21 individuals named in the indictment were acquitted after a two year trial.

B. LOCAL 408

Local 408 is located in Union, New Jersey. It has approximately 950 members in the following industries: Building Materials, Heavy, Highway and Construction Industries, Drivers, Helpers and Warehousemen. (Ex. 3)

C. MARCO MINICHINO

Minichino is a member of Local 408 and employed at Loizeaux Building Supply Company. (Ex. 4) Local 408 dues records indicate that Minichino has been a member of Local 408 since June 14, 1984. (Ex. 4) Local 408 dues records show Minichino as an active member whose last dues payment was on May 17, 2004. (Ex. 4)

On approximately August 22, 1985, a racketeering indictment against Minichino and 25 others was unsealed in the Northern District of New Jersey. (Ex. 1) A news article reported that the U. S. Attorney stated that those indicted were part of the "New Jersey branch of the Luchese crime organization." (Ex. 5) The 81-page indictment charged "the 26 men were members of a group ...called the Taccetta Group Enterprise, that conducted a wide range of illegal activities, including loan sharking and gambling, the sale of cocaine and marijuana, the acquisition and distribution of counterfeit credit cards and the use of a now-defunct oil company to commit fraud." (Exs. 1 & 5) Those indicted included Minichino, Anthony "Tumac" Accetturo ("Accetturo"), Michael Perna ("Perna"), Thomas Ricciardi ("Ricciardi"), Martin Taccetta and Michael "The Fat Kid" Taccetta. (Ex. 1) During 1988 Hearings before the Permanent Subcommittee on Investigations of

the Committee on Governmental Affairs of the United States Senate, Accetturo, Perna, Ricciardi, Martin Taccetta and Michael Taccetta were identified as members of the Luchese LCN family. (Ex. 6)

On June 10, 2004, the Chief Investigator sent a notice of sworn examination to Minichino by overnight express mail scheduling his sworn examination for June 22, 2004. (Ex. 7) At this examination, the Chief Investigator planned to question Minichino about his Local 408 membership, the terms of his employment as well as any contacts with organized crime figures, particularly members and associates of the Luchese LCN family. The United States Post Office delivered the notice of examination on June 14, 2004. (Ex. 8)

On June 15, 2004, Anthony J. Fusco, Esq. ("Fusco"), counsel for Minichino, called the Chief Investigator's office and stated that Minichino would not appear for his sworn examination. (Ex. 9) Fusco was told that if Minichino failed to appear for his sworn examination, the Chief Investigator would recommend that Minichino be charged with failing to cooperate. (Ex. 9) Subsequent to this conversation, Fusco faxed a letter to the IRB in which he stated that "my client will not be attending the scheduled exam on June 22, 2004." (Ex. 10)

IV. ANALYSIS

The court-approved IRB Rules empowered the Chief Investigator "to take and require sworn statements or sworn in-

person examinations of any officer, member, employee, representative, or agent of the IBT, provided that the IRB has given the person to be examined at least ten (10) days advance notice in writing and also provided that the person to be examined has the right to be represented by an IBT member or legal counsel...." (IRB Rules, Paragraph H(3(c); H(7)) Further, the IRB was empowered to investigate any failure to cooperate fully with the IRB. Additionally, Article XIX, Section 14(i) of the IBT Constitution provides:

All officers, members, employees, and representatives of the International Union and its affiliated bodies shall cooperate fully with the Independent Review Board in the course of any investigation or proceeding undertaken by it. Unreasonable failure to cooperate with the Review Board shall be deemed to be conduct which brings reproach upon the Union, and which is thereby within the Review Board's investigatory and decisional authority.

It is well established that failure to cooperate with the IRB is grounds for disciplinary charges against IBT members.

V. CHARGE RECOMMENDATION

Based upon the foregoing, it is recommended that Marco Minichino be charged as follows:

While a member of Local 408 and the IBT, you brought reproach upon the IBT in violation of Article II, Section 2(a) and Article XIX, Section 7(b(1) and (2) and Section 14(i) of the IBT Constitution and obstructed, interfered and unreasonably failed to cooperate with the duties of the Independent Review Board as set forth in Paragraph G of the March 14, 1989 Consent

Order in United States v. International Brotherhood of Teamsters,
88 Civ. 4486 (S.D.N.Y.), to wit:

On June 22, 2004, you willfully and without justification failed to appear for your scheduled in-person sworn examination pursuant to Paragraph H.3(c) of the Rules and Procedures for Operation of the Independent Review Board for the International Brotherhood of Teamsters at which sworn examination you would have been questioned about activities related to your membership and employment as well as any contact with members and associates of organized crime.

EXHIBITS TO THE REPORT INVOLVING
MARCO MINICHINO

- Ex. 1 Indictment in United States v. Anthony Accetturo, et al., Crim No. 85-292
- Ex. 2 United Press International news article dated March 14, 1987
- Ex. 3 Form LM-2 of Local 408 for 2003
- Ex. 4 Dues Record and Application Card for Marco Minichino
- Ex. 5 New York Times news article dated April 22, 1985
- Ex. 6 Excerpts from U. S. Senate Subcommittee Hearings
- Ex. 7 Sworn Examination Notice to Marco Minichino dated June 10, 2004
- Ex. 8 U. S. Post Office Certified Letter Receipt
- Ex. 9 Memorandum regarding Telephone Call from Anthony J. Fusco
- Ex. 10 Letter from Anthony J. Fusco, Jr., Esq., dated June 28, 2004

INDEPENDENT REVIEW BOARD
1111 North Capitol Street, N.W., Suite 425
Washington, DC 20001
(202) 462-6080
Facsimile (202) 462-6084
Corruption Hotline (800) CALL IRE

3-1-137
IO-604

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

Board Members:
Benjamin R. Civiletti, Esq.
Venable, Baetjer, Howard & Civiletti
575 7th Street, NW
Washington, D.C. 20004

Administrator:
John J. Cronin, Jr.

Joseph E. diGenova, Esq.
diGenova & Toensing, LLP
901 15th Street, NW, Suite 430
Washington, D.C. 20005

October 12, 2004

William H. Webster, Esq.
Milbank, Tweed, Hadley & McCloy
1825 Eye Street, NW, Suite 1100
Washington, D.C. 20006

Members of the Executive Board
IBT Local 408
1907 Morris Avenue
Union, NJ 07083

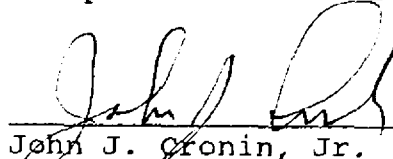
Re: Decision on Charges Against Former
Local 408 Member Marco Minichino

Dear Members of the Executive Board:

The Independent Review Board has reviewed your decision of August 12, 2004, as amended on September 17, 2004, in the above-captioned matter, and finds the decision to be not inadequate.

Very truly yours,

Members of the
Independent Review Board

By: 
John J. Cronin, Jr.
Administrator

cc: Charles M. Carberry, Esq.
Patrick J. Szymanski, Esq.
Marco Minichino

TEAMSTERS UNION LOCAL No. 408

Affiliated with

International Brotherhood of Teamsters

Joint Council No. 73



DONALD DILEO
President & Business Manager

JOSEPH DILEO
Secretary-Treasurer

PHONES: (908) 964-8151-2
FAX: (908) 964-8179

Affiliated With
New Jersey State Building and
Construction Trades Council
Essex County Building and Trades Council
Elizabeth Vicinity Building and
Construction Trades Council

1401 MORRIS AVENUE, UNION, NEW JERSEY 07083

September 17, 2004

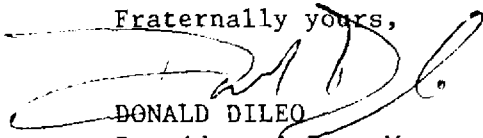
Mr. Marco Minichino
320 Van Name Avenue
Staten Island, New York 10303

Dear Sir and Brother:

After receiving due notice of a hearing and failing to appear before the Executive Board of Teamsters Union Local No. 408, I.B. of T., the charges by the Independent Review Board stand unrefuted. Therefore, the Executive Board, by a unanimous decision, finds you guilty of bringing reproach upon the International Brotherhood of Teamsters as specified by the charges of the Independent Review Board.

The Executive Board therefore orders that you be permanently expelled from membership in the Union; permanently barred from participating in any manner in any of the activities of Local 408 or any other I.B. of T. entity; permanently barred from holding any union office; permanently barred from holding any other employment, office position or consulting or similar relationship, whether paid or unpaid, with Local 408 or any other I.B. of T. entity, also, you will not receive any benefits from any I.B. of T. affiliated Benefit Fund and no I.B. of T. affiliated entity will make any benefit fund contributions on your behalf.

Fraternally yours,


DONALD DILEO
President & Bus. Mgr.

DD/js

certified 7002 2030 0110 5333 4534

cc: John J. Cronin, Jr. Administrator certified 7002 2030 0110 5333 4527 ✓

Patrick J. Szymanski, Esq.

BUILDING MATERIALS, HEAVY, HIGHWAY & CONSTRUCTION INDUSTRIES,
DRIVERS, HELPERS & WAREHOUSEMEN

TEAMSTERS UNION LOCAL No. 408

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Elizabeth Vicinity Building and
Construction Trades Council

INTERNATIONAL BROTHERHOOD OF TEAMSTERS - NEW JERSEY - 07083

August 12, 2004

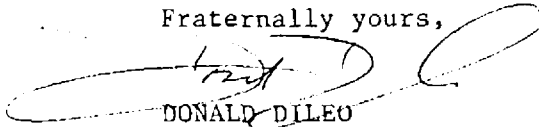
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320 Van Name Avenue
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The Executive Board therefore orders that you be permanently expelled from membership in the Union; permanently barred from participating in any manner in any of the activities of Local 408 or any other I.B. of T. entity; permanently barred from holding any union office; permanently barred from holding any other employment, office position or consulting or similar relationship, whether paid or unpaid, with Local 408 or any other I.B. of T. entity, effective upon receipt of this letter.

Fraternally yours,


DONALD DILEO
President & Bus. Mgr.

certified 7002 3150 001 0023 0044

DD/js

cc: ✓certif. John J. Cronin, Jr., Administrator
Patrick J. Szymanski, Esq.



"THE SAFEST WAY IS THE UNION DRIVERS WAY"

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Construction Trades Council

1801 MORRIS AVENUE, UNION, NEW JERSEY 07089

July 16, 2004

Mr. Marco Minichino
320 Van Name Avenue
Staten Island, New York 10303

Dear Sir and Brother:

Please be advised that you are being charged by the Local No. 408 Executive Board as follows:

While a member of Local 408 and the International Brotherhood of Teamsters, you brought reproach upon the I.B. of T. in violation of Article II, Section 2(a) and Article XIX, Section 7(b) (1) and (2), and Section 14 (1) of the International Brotherhood of Teamsters Constitution and obstructed, interfered and unreasonably failed to cooperate with the duties of the Independent Review Board as set forth in paragraph G of the March 14, 1989, consent order in United States v International Brotherhood of Teamsters, 88 Civ. 4486 (S.D.N.Y.) to wit:

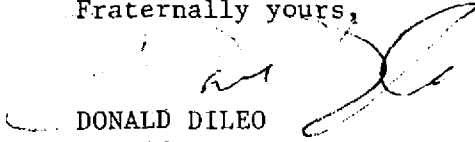
On June 22, 2004, you willfully and without justification failed to appear for your scheduled in-person sworn examination pursuant to Paragraph H.3 (3) of the Rules and Procedures for Operation of the Independent Review Board for the International Brotherhood of Teamsters at which sworn examination you would have been questioned about activities related to your membership and employment as well as any contact with members and associates of organized crime.

A hearing has been set for Tuesday, August 10, 2004, in the office of Teamsters Local No. 408 at 4:00 p.m. to answer the above stated charges.

July 16, 2004
page 2

Please be present at the scheduled time and bring with you any materials witness or other information that is relative to these charges.

Fraternally yours,



DONALD DILEO
President & Bus. Mgr.

DD/js

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cc: John J. Cronin, Jr. 7003 1010 0005 3378 6150 certified
Patrick J. Szymanski