

INDEPENDENT REVIEW BOARD  
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October 17, 2013

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The Honorable William H. Webster  
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**VIA HAND DELIVERY AND UPS**

IBT General Executive Board  
25 Louisiana Avenue, NW  
Washington, DC 20001

Re: Proposed Charges Against International Vice President,  
Local 25 and JC 10 President, Sean O'Brien

Dear Members of the Executive Board:

Enclosed are the Independent Review Board's (IRB) report and accompanying exhibits concerning International Brotherhood of Teamsters ("IBT") International Vice President, Local 25 and JC 10 President, Sean O'Brien. This report is forwarded to you for appropriate action under Section G, paragraphs (d) and (e) of the March 14, 1989 Consent Order entered in United States v. IBT, 88 Civ. 4486 (S.D.N.Y.).

Upon review of the report, if you deem it appropriate, charges under Article XIX of the IBT Constitution should be filed. You have ninety days within which to file the charges, hold a hearing and forward a final written report to the IRB. Pursuant to paragraph I(9) of the IRB Rules, not meeting this deadline may be considered a failure to cooperate with the IRB. Copies of hearing transcripts should be furnished to the IRB and to the Chief Investigator.

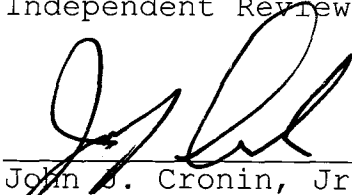
Pursuant to the Consent Order of the United States District Court, S.D.N.Y.  
United States -v- International Brotherhood of Teamsters 88 CIV. 4486 (LAP)

If you decide to reject the IRB's recommendation, you must provide a written explanation with the specific reasons for failing to accept. Within seven days of receipt of this letter, please inform the IRB of the actions planned.

Very truly yours,

Members of the  
Independent Review Board

By:

  
\_\_\_\_\_  
John J. Cronin, Jr.  
Administrator

Enclosures

cc: Members of the General Executive Board, w/Exhibits  
Bradley T. Raymond,, Esq., w/Exhibits  
Tara LaMorte, AUSA, w/Exhibits  
Michael A. Feinberg, Esq., w/Exhibits  
Sean O'Brien, w/Exhibits

TO: IBT General Executive Board  
FROM: Independent Review Board Members  
RE: Proposed Charge against International Vice President  
and Joint Council 10 President Sean M. O'Brien  
DATE: October 17, 2013

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**I. RECOMMENDATION**

The Independent Review Board ("IRB") refers the below report to the International Brotherhood of Teamsters ("IBT") General Executive Board and recommends that a charge be filed against Sean O'Brien ("O'Brien"), an International Vice President, for bringing reproach upon the IBT and threatening to retaliate against IBT members for exercising rights protected under federal labor law and the IBT Constitution, including the rights to seek election to office and support the candidate of one's choice.<sup>1</sup> In a speech, subsequently posted on the internet site YouTube, O'Brien, an officer of Joint Council 10 which includes Local 251, proclaimed that members of Local 251, who opposed the incumbent officer slate in the scheduled Local election and

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<sup>1</sup> Article XIX, Section 7(b)(10) of the IBT Constitution provides that a basis for disciplinary charges against IBT members is:

Retaliating or threatening to retaliate against any member for exercising rights under this Constitution or applicable law including the right to speak, vote, seek election to office, support the candidate of one's choice, or participate in the affairs of the Union.

(Ex. 3)

expressed views he disagreed with would have "a major problem" with him and "need to be punished." (Ex. 1 at 13-14; Exs. 2, 4) O'Brien, as President of Joint Council 10, was in a position to carry out his threat, to punish Local 251 and its members if they elected as officers others than the slate he supported.

By his actions, it appears that, while an officer of the IBT and Joint Council 10, O'Brien violated Article II, Section 2(a) and Article XIX Sections 7(b)(2) and (10) of the IBT Constitution by threatening to retaliate against IBT members for exercising rights protected under federal labor law and the IBT Constitution, including the rights to seek election to office and support the candidate of one's choice.

## **II. JURISDICTION**

As O'Brien is a current elected International Vice President, jurisdiction for a hearing on a charge against him rests in the General Executive Board. IBT Constitution Art. XIX, Section 4(d). Paragraph G(e) of the March 14, 1989 Consent Decree 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 Independent Review Board ("IRB Rules") require that within 90 days of the IRB's referral of a matter to an 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. Sean O'Brien**

O'Brien has been a member of the Teamsters since May 1991. (Ex. 1 at 4) He became an employee of Local 25 in 1999. (Ex. 1 at 5) He is currently President of the Local. (Ex. 1 at 4) He also serves as Trustee on several benefit funds. (Ex. 1 at 7-8) His annual salary from Local 25 in 2012 was \$124,548. (Ex. 5)

O'Brien is the President of Joint Council 10. (Ex. 1 at 4) Local 251 in Providence, RI and Local 25 are members of the Joint Council. (Ex. 6) His Joint Council salary in 2012 was \$20,000. (Ex. 7)

O'Brien is an International Vice President. (Ex. 1 at 4) He was elected in November 2011 and took office in March 2012. (Ex. 1 at 10) His International salary in 2012 was \$62,861. (Ex. 8)

O'Brien's total annual salary in 2012 from the Local, Joint Council and International was \$207,409. (Exs. 5, 7-8)

#### **B. Local 251**

Local 251 is located in East Providence, RI. There is a Local election scheduled for October 2013. (Ex. 9) The

incumbent Secretary-Treasurer is Joseph Bairos ("Bairos"). (Ex. 9) The nominations were made at a membership meeting on September 29, 2013. (Ex. 10) Bairos is seeking re-election. (Ex. 10) Bairos is also the Recording Secretary of Joint Council 10. (Ex. 1 at 12; Ex. 7) There is at least one opposing slate of members, the United Action Slate, running against Bairos and other incumbents in the Local 251 election. (Ex. 10)

### **C. The Threat**

O'Brien on a Saturday in late August or early September appeared at a campaign function for Bairos and his slate. (Ex. 1 at 11-12) In a speech given then, O'Brien proclaimed Bairos was his close ally on Joint Council 10 and that he and the IBT General President endorsed Bairos in the Local election. (Ex. 1 at 13; Exs. 2, 4) He also declared that those who opposed Bairos were not his friends and as a result would have "a major problem." (Ex. 1 at 13-14; Exs. 2, 4) He further stated that those opposing Bairos "need to be punished." (Ex. 1 at 14; Exs. 2, 4) For emphasis, he repeated the need for those who were running against the Bairos slate to be punished. (Exs. 2, 4)

He stated:

All of our members here today, this is very important. Joe Bairos is probably one of my closet allies in Teamsters Local, Teamsters Joint Council 10.

.....

It's up to you to control your future, and in my opinion and the opinion of the General President, your future lives with this man right here, Joe Bairos.

.....  
You know, TDU's famous for saying how we're all brothers and sisters, we're all taking care of each other and when this is over we'll all be friends. I've got news for you, anybody who takes on my friend, Joe Bairos and his team, or Local 251, they've got a major problem. They'll never be our friends.  
They need to be punished.

They need to be punished and they need to be held accountable for their actions, trying to divide and tear down this Local. I want everybody to go into their workplaces, Monday, united, tellin' 'em, "TDU sucks, go home, there's no place for the TDU!"

(Exs. 2, 4; Ex. 1 at 11; 13-14)

The video of O'Brien's speech was published on YouTube on September 9, 2013. (<http://www.youtube.com/watch?v=Yh5-oIDYII>; Exs. 2 and 15) The title on the video before the speech was "Vote the Membership Slate" (Ex. 2) The "Membership Slate" is Bairos' slate. (Ex. 10)

Joint Council 10 has extensive power over Local 251 and its members. It decides jurisdictional disputes between Locals. (Ex. 1 at 8-10, 14; Ex. 3 (IBT Constitution, Art. XV, Section. 4; Art. XII, Section. 21)) It hears appeals from Local 251 disciplinary decisions involving members. (Ex. 1 at 9-10; Ex. 3 (IBT Constitution, Art. XIX, Section 2(a)) If Local 251 ignored or neglected a charge a member filed, Joint Council 10 can hold a hearing on that charge. (Ex. 3 (IBT Constitution, Art. XV, Section 4)) It also hears charges against Local officers when the majority of the Executive Board is charged. (Ex. 3 (IBT

Constitution, Art. XIX, Section 1(a)) The Joint Council also reviews protests and charges relating to Local elections. (Ex. 1 at 9; Ex. 3 (IBT Constitution, Art. XXII, Section 5(b)).

O'Brien's explicit declaration that Bairos' political opponents in the Local Union had a "major problem", "need to be punished" and "need to be held accountable for their actions trying to divide and tear down this Local" was made by a union official with the power to retaliate against these political opponents. The only actions of the opponents involved were challenging the incumbent slate in an election and taking positions within the Local different than those Bairos and O'Brien advocated. Punishment is not a word of political opposition or one used to advocate a vote for the candidate of one's choice or against his opponent.

**D. O'Brien's Testimony**

On October 4, 2013, O'Brien testified pursuant to the IRB's request. (Ex. 1)<sup>2</sup> He stated that when he made the speech he was speaking without notes at a campaign rally for Bairos. (Ex. 1 at 13-14) O'Brien said he could not explain what he meant when he said Bairos' opponents and their supporters would have a "major problem" with him. (Ex. 1 at 13-14) He testified that it was "a poor choice of words." (Ex. 1 at 13-14) He also

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<sup>2</sup> O'Brien's sworn examination was originally scheduled for October 8, 2013. (Ex. 11) At O'Brien's counsel's request, the examination was conducted on October 4, 2013.



described his call for Bairos opposition within the Local "to be punished" as "a poor choice of words." (Ex. 1 at 14) He said by punished he probably meant ". . . be punished at the ballot box." (Ex. 1 at 14) The Merriam-Webster dictionary definition of punishment is: "(1) the act of punishing; 2(a) suffering, pain, or loss that serves as retribution; 2(b) a penalty inflicted on an offender through judicial procedure; (3) severe, rough, or disastrous treatment." (Ex. 12) O'Brien went beyond calling for an electoral defeat of Bairos' opponents. The statement was a blunt call for retaliation against them for challenging the incumbent and expressing views different than those O'Brien espoused.

In his testimony, O'Brien also indicated that he had not discussed the endorsement with the General President and had no approval from the General President to indicate publicly that the General President supported Bairos in the election, which O'Brien did in the speech. (Ex. 1 at 13; Exs. 2, 4)

At his sworn examination, O'Brien produced an email he had received from an individual who described himself as the campaign manager for the United Action Slate, the opposing slate in Local 251. (Ex. 1 at 16-17; Ex.13) In the email dated September 14, 2013, the sender expressed admiration for O'Brien's work in the union and indicated the opposing slate looked forward to working with him on Joint Council 10 when they

were elected. (Ex. 1 at 16-17; Ex. 13) O'Brien made no response. (Ex.1 at 18) He did not respond in any way that contrary to his proclaimed broadcasted position, he would on the Joint Council work with those properly elected.

O'Brien learned about the speech being posted on YouTube shortly after it occurred from Bairos. (Ex. 1 at 12) He was also contacted by a lawyer from the IBT concerning it. (Ex. 1 at 15) O'Brien made no effort to have the video taken down, including asking Bairos to have his supporters to take it down. (Ex. 1 at 15) <sup>3</sup>

In his call that Bairos' opponents be punished, O'Brien appears to have violated Article. XIX, Section 7(b)(10) of the IBT Constitution which prohibits:

Retaliating or threatening to retaliate against any member for exercising rights under this Constitution or applicable law including the right to speak, vote, seek election to office, support the candidate of one's choice, or participate in the affairs of the Union.

(Ex. 3)

#### **IV. PROPOSED CHARGE**

Based upon the foregoing, it is recommended that International Vice President and Joint Council 10 President Sean O'Brien be charged as follows:

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<sup>3</sup> The "Help" section of the You Tube website provides instructions on how to delete uploaded videos. (Ex. 14) According to the You Tube "Help" section, "You can only remove videos that you have uploaded yourself. To report abuse, harassment, inappropriate content, or privacy complaints, please visit the Safety Center." (Ex. 14)

While an International Vice President, President of Joint Council 10 and President of Local 25, you brought reproach upon the IBT in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(2) and (10) of the IBT Constitution by threatening to retaliate against members for exercising their rights to seek election to office and support the candidate of one's choice, to wit:

As detailed above, during your appearance at a campaign event for Local 251 principal officer Bairos and his slate in late August or early September 2013, you threatened to retaliate against members who supported another slate by stating, among other things, that such members would have "a major problem" and "need to be punished."

**EXHIBITS TO THE CHARGE REPORT REGARDING SEAN O'BRIEN**

- Ex. 1 Sworn Examination of Sean O'Brien dated October 4, 2013
- Ex. 2 Disc of You Tube Video of Sean O'Brien
- Ex. 3 Excerpts from IBT Constitution
- Ex. 4 Transcript of You Tube Video of Sean O'Brien
- Ex. 5 Excerpt from Form LM-2 of Local 25 for 2012
- Ex. 6 Excerpt from IBT Roster
- Ex. 7 Excerpt from Form LM-2 for Joint Council 10 for 2012
- Ex. 8 Excerpt from Form LM-2 for IBT for 2012
- Ex. 9 Excerpt from Form LM-2 for Local 251 for 2012
- Ex. 10 Minutes of General Membership Meeting for Local 251 dated September 29, 2013
- Ex. 11 Sworn Examination Notice for Sean O'Brien date September 25, 2013
- Ex. 12 Definition of Punishment per Merriam Webster Dictionary
- Ex. 13 E-Mail from Nick Williams to Sean O'Brien dated September 14, 2013
- Ex. 14 Rules for taking down You Tube Videos
- Ex. 15 Screen Print You Tube Video of Sean O'Brien