

TO: IBT General President James P. Hoffa  
FROM: Members of the Independent Review Board  
RE: Trusteeship Recommendation regarding Local 107  
DATE: February 25, 2010

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**I. RECOMMENDATION**

The Independent Review Board ("IRB") recommends to the IBT General President that Local 107 be placed in Trusteeship pursuant to Article VI, Section 5(a) of the IBT Constitution. It appears that the Local is not being operated for the interests of members. Despite prior warning to the Local's officers of the problem, the Local officers and their agents appear to have continued a practice of influencing work assignments in the movie and trade show industries to favor family and friends over other members.<sup>1</sup>

On October 21, 2009, the IBT's General Counsel advised that the Local was considering surrendering jurisdiction over the movie industry. On January 21, 2010, the Local's counsel met with the IRB's Chief Investigator to discuss the investigation. On January 25, 2010, Local 107 principal officer William Hamilton ("Hamilton") sent a

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<sup>1</sup> In this report, the term "movie industry" includes movies, commercials, television shows and videos. The term "trade show industry" includes work at the Pennsylvania Convention Center, theaters, concerts and trade show and convention work at other venues.

letter to IBT General President James Hoffa stating that the Local's Executive Board had voted to cede its jurisdiction over the movie and entertainment industry to another Local. (Ex. 246)<sup>2</sup> Hamilton asked the General President's permission to pursue the matter with the Director of the IBT's Motion Picture and Theatrical Trade Division. (Ex. 246)

## **II. SUMMARY**

In 1996, based upon an IRB recommendation, the IBT placed Local 107 in Trusteeship. In December 2000, shortly after the Local was released from the IRB-recommended Trusteeship, the IRB issued a report to both the IBT and the then and current Local 107 principal officer, Hamilton, summarizing deficiencies in the Local's work referral practices in the movie and trade show industries. The IRB's 2000 report stated that ". . . individuals who had ties to Local 107 officials joined the Local and, despite the absence of seniority, were sent to lucrative positions in the movie industry while there were unemployed Local 107 members seeking work." (Ex. 1 at 5) Subsequent to the IRB's report, in May 2001, the Local created written work referral rules for the movie and trade show industries.

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<sup>2</sup> There was no mention of Local 107 surrendering jurisdiction over the trade show industry to another Local. (Ex. 246)

Subsequent investigation has established that these rules were not followed despite representations to the members, the National Labor Relations Board ("NLRB") and the IRB that they governed work assignments.

The pattern of nepotism and favoritism that existed at Local 107 before 2000, when the IRB issued the report described above, continued after the IRB's 2000 report. Relatives and friends of the Local's officers and the trade show steward and the Teamster movie captains continued to work in the movie and trade show industries while there were unemployed Local 107 members with better qualifications and experience, who did not work. The unenforced written rules appear to have been camouflage to conceal the continuation of the past practice.

The 2001 movie referral rules provided that the Local would supply employers with the entire "A" referral list of fifteen individuals with "the highest combination of years of experience in this industry and number of productions", and the corresponding resumes. (Ex. 2 at 2) The employers would select drivers from this list. (Ex. 2 at 2-3) Pursuant to these rules, once the "A" list was exhausted, the Local would provide employers with the entire "B" list, which included all other individuals "in industry

experience order", and their resumes for the employers to select additional drivers. (Ex. 2 at 3)

Sometime before March 2008, the written referral rules were amended to provide that there would be only one movie referral list. Employers would receive this list, along with resumes, and the employer would select drivers.<sup>3</sup> According to these rules, placement on this single referral list was "based on the highest combination of: Driving Experience, CDL [commercial driver's license] qualifications, Industry experience, Specialty equipment." (Ex. 5 at 2) In the Local's October 2, 2008 response to an IRB document request, the Local was unable to provide any documents regarding how individuals were placed on the movie referral list. (Exs. 6 and 107) Moreover, although according to the written rules, driving and industry experience were factors determining an individual's placement on the single referral list, for the list of names included below the ten names on the "Movie A List", the referral document stated: "the below list is not [sic] seniority order." (Ex. 113)

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<sup>3</sup> When shown these undated rules during their 2009 IRB sworn examinations, neither Anthony Frasco, then the business agent for the movie and trade show industries, nor Hamilton were able to state when they were created. (Ex. 3 at 51-52; Ex. 4 at 31-33) These rules were provided to the IRB's Chief Investigator's office during the March 2008 books and records examination.

In any event, as discussed below, instead of providing the referral lists and resumes to the employers for selection by employers as the 2001 and subsequent rules both provided, the Local's business agent and Teamster movie captains, whose appointment the Local influenced and whose positions the Local negotiated the terms for in the collective bargaining agreements, decided who worked on movie productions, absent a specific request for an individual from an employer.

Symptomatic of the ties between work assignments and being in favor with Local officers, between at least 2000 and 2004, members who received discretionary work assignments in the movie industry through the Local, worked unpaid at principal officer Hamilton's home, including helping him move. In 2000, Hamilton, who at that time was involved in determining who worked on movie productions, assigned at least three individuals, who performed personal work for Hamilton, to work on the movie Unbreakable.

It appears that, even after the Local wrote the 2001 work referral rules and after a September 2003 settlement agreement with the NLRB which required the Local to post a notice stating "we will not fail to follow our established rules in the operation of our referrals for the film and video industry" (Ex. 178), the rules remained unenforced.

The Local officers despite these representations to the members, the NLRB and the IRB that the written rules were being followed took no action to ensure they were. Member complaints put them on notice that the rules were ignored.

Nepotism and favoritism continued to influence the Local's work referrals in the movie and trade show industries. For example, as detailed below, while there were out of work Local 107 members, the brother-in-law of Anthony Frasco ("Frasco"), then both the Local's Vice President and business agent for the movie and trade show industries, was referred to work, even though he was not a member of the Local. Then trade show steward Michael Conway's ("M. Conway") relatives, including one who joined the Local shortly after being released from prison, were referred to movie and trade show work while there were unemployed Local 107 members not receiving work. In June 2009, the Local paid \$38,750 to settle a complaint Local 107 member Frank Gizzi ("Gizzi") filed in November 2007 with the NLRB which alleged that the Local failed to refer him to movie work.

As discussed below, individuals with close ties to the Local's officers and stewards were referred to trade show industry work in violation of the requirement in the Local's written referral rules that an individual must be

current in his dues to be referred to work. For example, a nephew of M. Conway, then the trade show steward, received numerous work referrals in the trade show industry while he was suspended from the Local for non-payment of dues.

In approximately October 2008, while the IRB's investigation was ongoing, the Local allegedly surrendered to employers complete control over hiring members for jobs in the movie industry. According to Local officers, as of October 2008 the Local's role was limited to sending a summary of approximately 200 resumes in alphabetical order to production companies for the companies to choose drivers. No benefit to the Local's members in the Local surrendering control of the movie work referrals was apparent. As discussed below, the Local also allegedly surrendered control of work referrals in the trade show industry.

As a practical matter, it appears this was a strategy to insulate nepotism and favoritism in work referrals from review, much as the unenforced written rules were. Many production companies would not have any basis to know which workers to select. The evidence supports the conclusion that nepotism and favoritism continued to influence work assignments on movie productions after October 2008. For example, as detailed below, there were approximately 161

individuals with resumes submitted to the Local available for work in approximately July 2009. (Exs. 153, 188, 268)<sup>4</sup> Yet, beginning in approximately July 2009, the principal officer's sister and the Vice President's brother-in-law, who had less experience and qualifications than most not selected, both worked for several months on a SONY movie production. (Exs. 70, 188, 268) In addition, apparently after Frasco recommended him to the Local 107 movie captain for the SONY movie, one of the Local's part-time Trustees, who had been laid off from his position at a freight company and had no prior movie experience, worked on the movie. Pursuant to the collective bargaining agreement for the SONY movie, the minimum weekly rate was \$2,500. There were other Local 107 members available to work on the SONY project. For example, Vincent Dodd ("Dodd"), who had been laid off from DHL before Hamilton's sister and who had a Class B commercial driver's license ("CDL"), which Hamilton's sister and Frasco's brother-in-law did not have, did not receive work on the SONY project.<sup>5</sup>

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<sup>4</sup> As of July 2009, 208 individuals had submitted resumes to the Local seeking work. (Ex. 188) Approximately 47 of these individuals worked on the movie The Last Airbender (Ex. 153), leaving approximately 161 individuals available to work. (Exs. 188, 153 and 268)

<sup>5</sup> According to the Pennsylvania Department of Transportation, a Class A commercial driver's license is required to "operate any combination of vehicles with a gross combination weight rating of 26,001 pounds or more, provided the gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds." (Ex.



Indeed, during the investigation, a document appears to have been created to falsely explain Hamilton's sister's work assignment. As detailed below, this document was given to the IRB in the investigation. It was an email from a person working on the SONY production requesting the principal officer's sister, Donna Hamilton ("D. Hamilton"), to work on the project. The document was dated one month after D. Hamilton had begun work and was also after the IRB made a document request to the Local for all employer requests for individuals to work. In response to the IRB's document request, the Local produced written requests for six other individuals, including a long-time close friend of the co-captain on the movie, but did not produce any employer request for D. Hamilton. All of these requests were dated before the member began work. D. Hamilton was laid off from a customer service position at DHL and did not have a commercial driver's license or any experience working as a driver. The apparently manufactured request was produced to the IRB at the conclusion of D. Hamilton's sworn examination in September 2009. It was dated over a month after she began work.

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243) A Class B commercial driver's license is required to "operate any single vehicle with a gross vehicle weight rating of 26,001 pounds or more or any such vehicle towing a vehicle having a gross vehicle weight rating of not more than 10,000 pounds." (Ex. 243)

Although claiming that only the employers selected the members to work, the Local's officers admitted in certain circumstances, such as on some commercials, the business agent or movie captain continued to control who worked. For example, before the Secretary Treasurer's brother began to work on the lucrative SONY project in July 2009, either Secretary-Treasurer Shawn Dougherty ("S. Dougherty") or Frasco assigned S. Dougherty's brother to work on two short commercials after the brother, Kevin Dougherty ("K. Dougherty"), was laid off from a freight company.

The Local influenced who were captains and the captains in turn influenced the selection of members for work. The terms of employment for the captains were defined in the collective bargaining agreements the Local negotiated with the production companies. In September 2009, in response to an inquiry, the Local's Secretary-Treasurer informed a production company that Local 107 member Frank Conway ("F. Conway") was the only captain available to work on a project. The company made no request for any specific individual to be captain. After that, three of the four additional members who worked on that project included F. Conway's two sons and a former Local 107 officer.

### III. INVESTIGATIVE FINDINGS

#### A. Background of Local 107

Local 107 is located in Philadelphia, Pennsylvania. As of December 7, 2009, it had approximately 2,429 members who were employed in various industries including freight companies and the movie and trade show industries. (Ex. 7)<sup>6</sup> According to a December 7, 2009 Local 107 employer roster, the combined movie and trade show industries were the tenth largest employer of Local 107 members. (Ex. 7)<sup>7</sup>

Local 107 has had a history of ties to the Philadelphia La Cosa Nostra ("LCN"). On June 17, 1966, Local 107 business agent John Gorey and bookkeeper Rita Janda were murdered inside the Local's offices. (Ex. 248 at 1) Local 107 member Gregory Carchidi, who at the time was employed at the Local as a janitor and later was the trade show steward from approximately 1979 to 1996, was tried and acquitted of the homicides. (Ex. 248 at 2-3; Ex. 251 at 14-

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<sup>6</sup> In January 2009, Teamster Local 470 merged into Local 107. (Ex. 9) Former Local 470 officer Anthony Volpe, who retired in August 2009, is the cousin of former Local 107 trade show steward Michael Conway. (Ex. 10 at 6-7; Ex. 102 at 7; Ex. 75)

<sup>7</sup> According to the December 7, 2009 Local 107 employer roster obtained from the IBT, 49 members were employed in the convention center and movie and commercial industries. (Ex. 7) It is likely that there were more members employed in those industries who were categorized as casuals on the employer roster. The employers who employed more Local 107 members than the combined movie, commercial and trade show industries were the following: DHL, 142 members; YRC, 132 members; Sears Roebuck, 126 members; US Food Service, 115 members; Penn Jersey, 93 members; New Penn, 92 members; UPS, 71 members; Wilmar, 59 members and Arkansas Best, 57 members. (Ex. 7)

15)<sup>8</sup> In 1968, Local 107 member Robert DeGeorge was murdered outside Local 107's offices. (Ex. 254)

Michael Facchiano ("Facchiano") was the Local 107 Vice President and a business agent until his retirement in 1989. (Ex. 252 at 5) According to news reports, in February 1981, Facchiano was seriously wounded when he was shot multiple times in the Local 107 parking lot. (Ex. 247)<sup>9</sup> On October 19, 1982, Facchiano and Joseph Cimino ("Cimino"), then the principal officer of Local 107, were observed at The Saloon, a restaurant in Philadelphia, with Salvatore Merlino, Lawrence Merlino and Philip Leonetti who have been publicly identified as members of the Philadelphia LCN Family. (Ex. 253; Ex. 258 at 63-64)

In 1991, the Independent Administrator permanently barred Cimino, then the President and principal officer of Local 107, from the IBT based upon Cimino's knowing association with Nicodamo Scarfo ("Scarfo"), the then boss of the Philadelphia LCN. (Ex. 8) According to Philip Leonetti, a protected witness and the former underboss of

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<sup>8</sup> Carchidi was removed as the trade show steward after the imposition of the 1996 IRB-recommended Trusteeship over Local 107. (Ex. 251 at 22; Ex. 34) Carchidi's co-defendants included Anthony DiPasquale and then Local 107 officer John Sullivan. (Ex. 248 at 1-3) DiPasquale was acquitted. (Ex. 248 at 3) News articles between 1998 and 2000 reported that DiPasquale had ties to the Philadelphia LCN. (Ex. 263) Sullivan's conviction was overturned on appeal. (Ex. 254)

<sup>9</sup> According to news reports, earlier in February 1981, Facchiano had found an explosive device under his car. (Exs. 247 and 254)

the Philadelphia LCN, while Local 107 President, Cimino used his union position to arrange employment for organized crime members and associates referred to him. (Ex. 8 at 6-7) The Independent Administrator found that Cimino met with Scarfo and other members of organized crime at The Saloon. (Ex. 8 at 7) During one of these meetings at The Saloon, Scarfo told Cimino, "I'm the union, I run Local 107." (Ex. 8 at 7)<sup>10</sup>

On October 25, 1991, Thomas Ryan ("Ryan") replaced Cimino as the Local's principal officer. (Ex. 11) Based upon IRB-recommended charges, on August 20, 1996, Ryan was suspended from the IBT for five years for breaching his fiduciary duties and embezzling Local 107 funds. (Exs. 12-13) In February 1999, based upon additional IRB-recommended charges, Ryan was permanently barred from the IBT for violating the terms of his suspension. (Exs. 14-15)

More recently, on December 29, 2008, the IRB recommended that Local 107 chief DHL steward Peter Innaurato ("Innaurato") be charged with knowingly associating with Joseph Massimino ("Massimino"), a member and Underboss of the Philadelphia LCN. (Ex. 16) Innaurato

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<sup>10</sup> On October 16, 1991, District Court Judge David N. Edelstein affirmed the Independent Administrator's decision. United States v. IBT, 777 F.Supp. 1130 (S.D.N.Y. 1991). On May 27, 1992, the Court of Appeals for the Second Circuit affirmed the District Court's decision regarding Cimino. United States v. IBT, 964 F.2d 1308 (2d Cir. 1992).

had joined the Local in approximately May 1990 after being introduced to Cimino. (Ex. 17 at 5, 7-10; Ex. 239) In approximately 2000, Hamilton, the Local's principal officer, appointed Innaurato chief steward for DHL. (Ex. 17 at 13-14) Hamilton and Innaurato were friends and socialized outside work. (Ex. 17 at 31, 32-34, 36-40) For example, Innaurato testified that he had been to Hamilton's home approximately two dozen times, including for the holidays. (Ex. 17 at 33-34)

The evidence of Innaurato's purposeful association with LCN Underboss Massimino included their exchange of letters while Massimino was incarcerated. (Exs. 18-19)<sup>11</sup> In

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<sup>11</sup> In a letter dated September 11, 2006 to Innaurato, Massimino wrote,

Tell Kelly I send my best and Billy to [sic]. Well buddy be cool and take care. When you get a chance drop me a line. If you need me I'm right here. Thanks buddy.

(Ex. 18) In response, in a letter dated September 30, 2006, Innaurato wrote to Massimino,

Like I said, tell me if I can do anything for you. I'll wait to hear from you and the idea that I'm your friend will keep me strong. My mom's feeling better, by the way. Thanks for always asking about her. Kelly & Billy & Johnny Garb told me to send you their best.

(Ex. 19) Innaurato testified that the "Kelly" referenced in the two letters was Local 107 member Joseph Kelly. (Ex. 17 at 41-43, 56) Kelly, who worked in the trade show and movie industry, joined the Local in April 1991 shortly after his January 1991 release from prison after serving a sentence for a federal drug trafficking conviction. (Ex. 20 at 4-7; Ex. 23) Massimino was one of Kelly's codefendants in that drug case. (Ex. 20 at 14) Kelly claimed that he did not meet Massimino until after Kelly was released from prison in approximately 1991. (Ex. 21 at 30-31)

order to resolve the IRB-recommended charge, on April 9, 2009, Innaurato entered into an Agreement pursuant to which he permanently resigned from all IBT positions, including IBT membership. (Ex. 22)

On June 22, 2009, the IRB recommended that Michael Conway, then the Local 107 chief steward for the Pennsylvania Convention Center ("PCC") and a movie captain, be charged with knowingly associating with Ryan, who had been permanently barred from the IBT. (Ex. 31) Between February 2002 and October 2008, there were at least 46 telephone contacts between M. Conway and Ryan. (Ex. 31 at 2) On December 10, 2009, after a hearing, the IBT General President suspended M. Conway from all IBT positions including IBT membership and any steward or union

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Innaurato claimed that the "Billy" referred to in the letters was Local 107 member William Gervasi who worked at DHL. (Ex. 17 at 41, 43) Gervasi, whom Innaurato had introduced to Massimino approximately seven years prior to Gervasi's October 2008 sworn examination, denied sending regards to Massimino through Innaurato. (Ex. 24 at 9-10) Local 107 principal officer William Hamilton denied knowing Massimino. (Ex. 3 at 90)

Innaurato claimed that, although he mentioned "Johnny Garb" in his letter to Massimino, he did not know "Johnny Garb." (Ex. 17 at 42) Innaurato claimed that "Johnny Garb" saw Innaurato one day on the street and asked him to send regards to Massimino. (Ex. 17 at 42) It appears that the "Johnny Garb" referred to in Innaurato's letter was John Garbarino. (Ex. 25 at 58-59) In 2004, John Garbarino was arrested for illegal gambling with, among others, Antonio Capetillo. (Ex. 25 at 8-9) As discussed below, shortly after serving a sixty day sentence for illegal gambling, Capetillo joined Local 107. (Ex. 25 at 5-7) Capetillo worked in the movie and trade show industries. (Ex. 25 at 6, 15, 18-34) As discussed below, after joining the Local, Capetillo did not pay dues for almost two years even though he received work assignments in the trade show industry. (Exs. 26-28) It appears that Garbarino worked at the Pennsylvania Convention Center in October and November 2006. (Ex. 29)

representative positions for ten years. (Ex. 240) The matter is pending. In approximately September 2009, M. Conway's brother, Frank Conway, who also worked as a movie captain, was elected by the six members on the PCC seniority list to replace M. Conway as the PCC steward. (Ex. 32 at 103-104)

**B. 1996 Trusteeship**

On August 9, 1996, based upon an IRB recommendation, the IBT placed Local 107 in Trusteeship. (Exs. 33 and 34) The IBT's Trusteeship notice stated that the grounds for the Trusteeship included, among other things, that the net assets of the Local had decreased drastically between 1991 and 1995; despite the Local's poor financial condition, since at least 1991, the Local's officers, employees and Trustees had received sizeable bonuses; the Local officers made significant expenditures of Local funds for their personal benefit and for inadequately documented entertainment expenses. In addition, the Trusteeship notice stated that the Local failed to have even rudimentary financial controls, that officers and members of the Local had continuing contacts with organized crime elements and that some of the expenditures of Local funds benefited such persons. (Ex. 34) At the time the Trusteeship was imposed, current Local 107 principal



officer William Hamilton was the Local's Recording Secretary and a business agent and Frasco, who retired in November 2009 from his positions as the Local's Vice President and business agent for the movie and trade show industries, was a Trustee on the Local's Executive Board. (Ex. 35)

The Local was released from Trusteeship on October 31, 2000. (Ex. 36)

**C. Local 107 Officers**

**1. President William Hamilton**

Hamilton joined Local 107 in 1967. (Ex. 37) He was a shop steward for twenty years at McLean Trucking. (Ex. 66 at 4) In 1990, Hamilton was elected a Trustee on the Local's Executive Board and became a business agent. (Ex. 66 at 5-6)

Since the Local was released from Trusteeship on October 31, 2000, Hamilton has been Local 107's principal officer. (Exs. 36; Ex. 3 at 5; Ex. 38 at 4) In April 2008, Hamilton was appointed to replace Frank Gillen ("Gillen") as an International Vice President after Gillen was suspended for five years from office for testifying falsely during his IRB sworn examination when he denied having contact with former Local 107 principal officer Ryan who had been permanently barred from the IBT. (Exs. 41 and 42)

Hamilton has been the President of Joint Council 53 since August 2007. (Ex. 43; Ex. 3 at 6) Effective January 1, 2010, Hamilton became the principal officer of the Pennsylvania Conference of Teamsters where he had been Vice President since approximately 2009. (Ex. 3 at 6; Ex. 149)

In 2008, Hamilton was paid \$102,662 from Local 107, \$61,813 from the IBT, \$30,300 from the Pennsylvania Conference and \$19,200 from the Joint Council. (Exs. 45-48) His total salary from those entities was \$213,975 in 2008. (Exs. 45-48)<sup>12</sup>

Hamilton's son, Kevin Hamilton, is a Local 107 member employed at the Kimmel Center where he holds the only full-time position and is the steward. (Ex. 3 at 88-89; Ex. 201)<sup>13</sup> Hamilton's sister, Local 107 member Donna Hamilton, received lucrative work on the SONY production in July 2009, after being laid off from DHL. (Ex. 50 at 10)<sup>14</sup>

## **2. Secretary-Treasurer Shawn Dougherty**

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<sup>12</sup> Since January 2001, Hamilton has been a Trustee of the Philadelphia Teamsters Health and Welfare and Pension Funds. (Ex. 49)

<sup>13</sup> The other Teamster positions at the Kimmel Center were considered extra employees. (Ex. 201)

<sup>14</sup> Between approximately 1997 and 2004, Hamilton's son, William, worked in the movie and trade show industry. (Ex. 56 at 15; Ex. 276) For example, in November 2001, Hamilton's two sons, William and Kevin, and his father, William, worked on the movie Signs. (Ex. 276) In addition, Hamilton's son, William, worked as a movie captain. (Ex. 4 at 13-14) Hamilton's son, William, died in May 2004. (Ex. 57; Ex. 50 at 8) After he retired from the Local, Hamilton's father worked on some movie productions. (Ex. 3 at 21, 88; Ex. 276) He died in March 2009. (Ex. 50 at 18)

Shawn Dougherty joined Local 107 in approximately January 1984. (Ex. 51) He worked for various Local 107 employers including Airborne Express, where he was a steward, and Ameriport Rail Yard. (Ex. 52 at 5-7) In June 2005, he was appointed a Trustee on the Local's Executive Board. (Ex. 53) After an election, Dougherty took office as Secretary-Treasurer in January 2006. (Ex. 54) In 2008, Local 107 paid Dougherty \$95,429. (Ex. 45)

Since approximately August 2009, S. Dougherty has been the business agent for the movie industry replacing Frasco. (Ex. 55 at 13) As discussed below, S. Dougherty's brother, Local 107 member Kevin Dougherty, worked on movie and commercial productions after being laid off from U.S.F. Holland ("Holland") in April 2009. (Ex. 58 at 7-8, 11-14) For example, after being laid off from Holland, in May and June 2009, K. Dougherty, who had no movie experience, worked on a television show, a short movie and two commercials before working for several months on the lucrative SONY movie beginning on approximately July 6, 2009. (Ex. 58 at 11, 15-16, 21-22) K. Dougherty acknowledged that either his brother or Frasco sent him to work on the commercials. (Ex. 58 at 15-16, 21)

### **3. Vice President Walter "Dan" Bosak**

Walter "Dan" Bosak ("Bosak") joined Local 107 in April 1967. (Ex. 59) He was a Trustee on the Local's Executive Board from 1993 until the Local was placed in Trusteeship in 1996. (Exs. 35, 60-62; Ex. 63 at 7-8, 13-14) In 2000, then IBT Trustee Gillen appointed Bosak a business agent. (Ex. 40) In 2008, Local 107 paid Bosak \$94,750. (Ex. 45) After Frasco's retirement effective November 30, 2009, Bosak became the Local's Vice President. (Exs. 79 and 204)

Bosak's brothers, John and George Bosak, worked in the movie industry. (Ex. 63 at 5; Ex. 64 at 4-7; Ex. 237) The Local's former Trustee and dispatcher, John Dooley ("Dooley"), is Bosak's nephew. (Ex. 63 at 15; Ex. 67 at 7; Ex. 68) In addition, Local 107 member William McCleery ("McCleery"), who joined the Local in September 1997, is Bosak's nephew. (Ex. 69 at 8) As discussed below, McCleery was the co-captain on the 2009 SONY movie. (Ex. 70)

#### **4. Recording Secretary Ed Slater**

Ed Slater ("Slater") joined the Local in March 1986 and was employed at Mac Steel. (Ex. 71) He was elected a Trustee in 2000. (Ex. 40)<sup>15</sup> After Frasco's retirement in November 2009, Slater became the Local's Recording Secretary and a business agent. (Exs. 79 and 204) As discussed below, Slater's brother-in-law, Thomas Maglio

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<sup>15</sup> In 2008, Local 107 paid Slater \$11,250. (Ex. 45)

("Maglio"), who was not a Local 107 member, worked on movie productions in Local 107's jurisdiction. (Ex. 72 at 7-9; Ex. 73)

## 5. Trustees

The Local's three Trustees were not full-time employees of the Local. (Ex. 45) Trustee Ted Mastrogiovanni joined the Local in 1974. (Ex. 74) According to his dues records, he was employed at Sears. (Ex. 74) He was elected a Trustee in 2000. (Ex. 40)

Trustee Michael Nugent ("Nugent") joined the Local in approximately August 1987. (Ex. 76) From approximately 1987 to 2004, Nugent worked for Red Star Express. (Ex. 77 at 4-5; Ex. 78) From September 2004 to approximately April 2009, when the company closed, Nugent worked at Holland. (Ex. 78; Ex. 58 at 8) Nugent was the steward at Holland. (Ex. 4 at 137) As discussed below, on May 6, 2009 shortly after Holland closed in late April 2009, Nugent, who had no movie experience, began to work on the SONY movie. (Ex. 70; Ex. 58 at 23)<sup>16</sup>

Trustee Everett Shaw was a member of Local 470 before it merged into Local 107 effective January 2009. (Ex. 249) Shaw, who joined Local 470 in October 2003, was employed at

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<sup>16</sup> Frasco told the Local 107 captain on the SONY movie that Nugent, who had a CDL A, was the best driver for center city Philadelphia. (Ex. 4 at 122-123)

DePaul Hauling. (Ex. 249) After Frasco's retirement effective November 30, 2009, Shaw was appointed a Trustee. (Exs. 79 and 204)

**6. Former Vice President Anthony Frasco**

Frasco joined Local 107 in September 1968. (Ex. 79; Ex. 80 at 5) He worked at Consolidated Freight for 17 years. (Ex. 80 at 5) Prior to the 1996 Trusteeship, Frasco was a Trustee on the Executive Board. (Ex. 35; Ex. 80 at 6) In 1999, Gillen, then the IBT Trustee of Local 107, appointed Frasco a business agent. (Ex. 81) When the Local was released from Trusteeship, Frasco was elected Vice President and continued as a business agent. (Ex. 40)

Frasco was the Vice President from 2000 until his retirement on November 30, 2009. (Ex. 4 at 4-7; Ex. 79) Prior to August 2009 when he gave up responsibility for those industries, Frasco was the business agent for the movie and trade show industries. (Ex. 4 at 7, 26) Sometime after August 2000, Frasco had replaced Hamilton as the business agent for the movies. (Ex. 232 at 18; Ex. 38 at 14; Ex. 3 at 7) As discussed below, Frasco's brother-in-law, Robert Kaznica ("Kaznica"), who was not a Local 107 member, worked in the movie and trade show industries after being laid off from his warehouse position where he was a

Teamster Local 929 member. (Ex. 83 at 6, 18) Kaznica also worked on the SONY movie in 2009. (Ex. 83 at 17, 23)<sup>17</sup>

**D. The IRB's 2000 Report Regarding Deficiencies in Local 107 Work Referrals**

In 2000, the IRB conducted the sworn examinations of approximately thirty-three Local 107 members who worked in the movie and trade show industries. (Ex. 1 at 4) In addition, the two IBT-appointed Local 107 Trustees, the assistant Trustee, Hamilton, Frasco, John Morrone, III ("Morrone, III"), then the movie transportation coordinator, and M. Conway, then the PCC steward, were also examined. Local 107's counsel, Thomas Kohn ("Kohn") represented the majority of the Local 107 members whose sworn examinations were conducted in connection with the IRB's 2000 investigation including Hamilton, Frasco and M. Conway. (See e.g. Exs. 38, 56, 63, 64, 80, 96, 97, 232, 233, 241)

On December 21, 2000, the IRB issued a report both to the IBT and to Local 107 principal officer Hamilton describing the deficiencies in the work referrals in the movie and trade show industries. (Ex. 1) At that time, the Local did not have any written rules governing work referrals. (Ex. 1 at 2-3) The IRB's report stated, "[t]he

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<sup>17</sup> By the time he worked on the SONY movie, Kaznica had joined Local 107. (Ex. 84)

absence of rules and their enforcement has resulted in repeated allegations of favoritism in work assignments." (Ex. 1 at 3) The IRB report stated that individuals with ties to Local 107's officers were referred to lucrative movie work and to work at the PCC while there were unemployed members looking for work. (Ex. 1 at 4-5)

By letter dated January 9, 2001, the then IBT General Counsel stated that the Local would implement written rules for referrals to work in the movie and trade show industries. (Ex. 85) In this letter, the IBT General Counsel stated that "reliable records will be kept and will be available for inspection." (Ex. 85)

The Local ignored this commitment. Frasco, who was the Local's business agent for the movie industry for many years, testified that he was not aware of any IRB report on the deficiencies in the referrals to movie and trade show work. (Ex. 4 at 7-8, 25-26) Similarly, S. Dougherty, the Local's Secretary-Treasurer since 2006 who took over as business agent for the movie industry in August 2009, testified that he never read the IRB's 2000 report regarding deficiencies in the Local's work referral practices. (Ex. 55 at 34)<sup>18</sup> Hamilton testified that he

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<sup>18</sup> In connection with the IRB's investigation in 2000, in July 2000, S. Dougherty's sworn examination was conducted. (Ex. 52) At that time,



believed that the 2001 movie referral rules came about as a result of the IRB's report. (Ex. 3 at 48)

**E. 2001 Movie Referral Rules**

As a result of the IRB's December 2000 report regarding the deficiencies in the Local's movie and trade show referral practices, in May 2001, the Local created written referral rules for the movie industry and for the trade show industry. (Ex. 2) Robert Baptiste, Esq. ("Baptiste") assisted the Local in formulating these rules. (Ex. 2; Ex. 67 at 11-12) Kohn, who had represented the Local in 2000 and continues to represent it, and Hamilton were copied on Baptiste's letter sending these rules to the IRB. (Ex. 2) The officers made no effort to ensure these rules were enforced. As detailed below, these rules were not implemented.

Pursuant to these written referral rules, the Local created two movie referral lists: an A list and a B list. (Ex. 2) According to the rules, the A list would consist of fifteen individuals arranged in order of industry experience based upon "the highest combination of years of experience in this industry and number of productions."

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S. Dougherty was seeking work in the movie and trade show industries. (Ex. 52 at 8-14, 33-34)

(Ex. 2 at 2) In addition to other requirements, such as possessing a current driver's license, in order to be eligible for placement on the A list, individuals must "have had full-time employment in the industry with at least (3) productions or sixty (60) days verifiable experience in the movie industry with an employer under contract with Teamsters Local 107." (Ex. 2 at 2)<sup>19</sup>

According to the 2001 rules, the B list would consist of "all other eligible individuals arranged in industry experience order." (Ex. 2 at 3) The minutes of the May 20, 2001 general membership meeting stated,

Pres. Hamilton then discussed the new guideline for the movie, theater and trade show work list. Under the guidance of Bob Baptiste and Tom Kohn, the Local has developed new rules which will distribute the work more fairly. Pres. Hamilton said because of the past trusteeship, work was given to the friends of the Trustee and that practice is long over.

(Ex. 271)

The 2001 rules also provided that individuals on the A or B movie lists must not be "on another "A" List with Local 107." (Ex. 2 at 2) At some point, the written movie referral rules published in May 2001 were modified to allow

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<sup>19</sup> The 2001 rules did not specify that individuals seeking referrals must have a commercial driver's license. However the 2001 rules required that such individuals must have a "current DOT medical certificate" which is applicable to individuals with commercial driver's licenses. (Ex. 2 at 2) The subsequent versions of the rules did not contain the DOT medical certificate requirement. (Exs. 5 and 87)

Local 107 members who were on an A list at another employer to be included on the A list for the movies. (Ex. 86 at 2; Ex. 2 at 2) As a result of this change, the individuals on the seniority list at the PCC were permitted to be included on the A list for the movie industry. When asked about this modification, Frasco, who was an officer and the business agent in charge of enforcing the rules, testified that he was not certain when or why the modification was made and that convention center workers always worked both movie and trade show work. (Ex. 4 at 27-30) Hamilton testified that he believed that this modification was made because the Local was concerned about discrimination suits. (Ex. 3 at 48-50)

According to the 2001 written referral rules,

[t]he Union will provide the employer with the entire "A" List and their resumes from which the employer will select and interview persons for possible employment. Once the "A" List is exhausted, the Union will provide the employer with the entire "B" list and their resumes.

(Ex. 2 at 3) The rules provided that, "[t]he Local Union Dispatcher shall maintain written records concerning all aspects of the operation of the referral service, including the time of referral calls." (Ex. 2 at 4) Dooley, the former Local 107 dispatcher, testified that he, Hamilton and Frasco worked with Baptiste to create the rules. (Ex.

67 at 11, 68) Hamilton was aware of the rules (Ex. 3 at 51-52), but never ensured that they were complied with. Frasco never put them into effect. In sum, they were window dressing to appear as if Local 107 was attempting to correct its referral practices while the practice of favoritism remained entrenched.

In practice, although the 2001 and subsequent referral rules provided that referral lists would be provided to employers for the employer to select drivers, the Local, either through the Local's business agents or the Teamster movie captain, actually controlled who worked on movie productions. The Local controlled who would be a movie captain. Former Local 107 dispatcher Dooley, who held that position from June 2000 to late 2002, testified that when he was the dispatcher, Hamilton, Frasco and Morrone, III, the then movie captain, selected who worked on movies. (Ex. 67 at 16-17)<sup>20</sup> During his October 2008 IRB sworn examination, Local 107 movie captain John Sullivan ("Sullivan") testified that under the referral rules, after individuals from the A list were called, Frasco gave him

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<sup>20</sup> Dooley stopped being a dispatcher in late 2002. (Ex. 67 at 7, 9-10, 36; Exs. 91-92) In approximately April 2005, Dooley resigned as a Local Trustee in order to run against Hamilton in the election that fall. (Ex. 67 at 9; Ex. 93) Dooley testified that one of the reasons he decided to run against Hamilton was that family and friends of the Local's officers were being referred to work. (Ex. 67 at 30-31) Dooley lost the election.

the names of additional drivers to call. (Ex. 89 at 23, 7-9)<sup>21</sup> F. Conway, who worked as a movie captain, acknowledged that "the Union would fill the job." (Ex. 90 at 23) In October 2008, M. Conway testified that ". . . Tony [Frasco] will tell you who he wants or he'll give you a list of guys. For awhile they had their own A list, so you went off of that, again, according to qualifications. . . ." (Ex. 102 at 42) M. Conway testified that "most times" Frasco would tell him who to pick from the list. (Ex. 102 at 42) During his October 2008 IRB sworn examination, movie captain Greg Cimino ("G. Cimino") testified that in 2008 "the Hall" gave him names of individuals to work on movies including on The Wrestler, Tenure and Transformers. (Ex. 94 at 46-48, 50, 52-59)<sup>22</sup> For example, according to Cimino, the producer for Transformers did not make any requests for particular drivers. (Ex. 94 at 59) When asked

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<sup>21</sup> As discussed below, although in October 2008 movie captain Sullivan referred to an "A" list (Ex. 89 at 7-9, 23), the referral rules created sometime before March 2008, provided that there was a single movie referral list, not an "A" list and a "B" list as the prior rules had provided. (Exs. 2 and 5)

<sup>22</sup> Cimino, who joined the Local in August 1983 and first worked as a movie co-captain in approximately 2003, is the son of Joseph Cimino, the Local's former principal officer who was permanently barred from the IBT in 1991 for knowing association with organized crime figures. (Ex. 8; Ex. 94 at 18; Ex. 95; Ex. 96 at 3, 8) Joseph Cimino died sometime prior to April 2000. (Ex. 97 at 41) According to G. Cimino, in 1991 he took a withdrawal card from the Local. (Ex. 96 at 4-6) In approximately August 1999, Cimino returned to active membership and began to work out of the Local's hiring hall. (Ex. 96 at 6-7; Ex. 98) He started working on the movie Unbreakable in April 2000. (Ex. 96 at 6-9)

how individuals were hired for the movies prior to the 2008 changes discussed below, principal officer Hamilton testified, ". . . I assume we just gave the captains their names and the qualifications, and that's how people were hired, I guess." (Ex. 3 at 60-61) In addition, in an October 2, 2008 letter to the IRB, the Local's attorney acknowledged that the Local had referred individuals to work before the Local allegedly surrendered that authority in approximately October 2008. (Ex. 6)<sup>23</sup>

**F. Joseph Cassella's NLRB Complaint**

By letter dated September 30, 2003, in response to a complaint then Local 107 member Joseph Cassella ("Cassella") filed with the NLRB, the NLRB's Regional Director described a settlement agreement pursuant to which Local 107 was required to post a notice stating, in part, "WE WILL NOT fail to follow our established rules in the operation of our referrals for the film and video industry" and "WE WILL follow our established rules, which will be based on objective criteria, and any revision of these rules, for referring individuals to film and video industry work." (Ex. 178) Despite the representations made in the

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<sup>23</sup> In his October 2, 2008 letter to the Chief Investigator, the Local's attorney stated, ". . . in that the Local has decided to cease referring individuals and will merely forward resumes to employers. . ." (Ex. 6)

notice to the members, the Local officers and employees continued to ignore the rules they had created.

In his complaint to the NLRB, Cassella alleged, among other things, that the Local's "referral system has been operated to provide favoritism and lack of uniformity in referral procedures and layoff procedures." (Ex. 178) According to the NLRB Regional Director's September 30, 2003 letter to Cassella, "[a]lthough the Union has failed to follow its established referral rules, there was insufficient evidence that you personally would have been referred to film industry work if the Union had acted in a nondiscriminatory fashion." (Ex. 178)<sup>24</sup> This letter was copied to both Kohn and Hamilton. (Ex. 178)<sup>25</sup>

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<sup>24</sup> The NLRB Regional Director's letter to Cassella further stated,

In this regard, the film producers that sought referrals from the Union's hiring hall during the relevant time period preferred or required that their drivers maintain an CDL-A license, a qualification that you do not have, and the Union referred employees with CDL-A licenses to those employers. Indeed the Union did not refer all of the employees on its referral lists who possessed CDL-A licenses for work on those films. Moreover, contrary to your assertion, the referral rules do not require the Union to refer employees on its lists in seniority order but only that the Union submit the seniority lists to the employers for selection of employees. The Settlement Agreement provides, inter alia, that the Union follow rules based upon objective criteria in the operation of its hiring hall.

(Ex. 178)

<sup>25</sup> It appears that after the Local agreed to post the notice, the NLRB declined to issue a complaint in the Cassella matter. (Ex. 178)

The minutes of the Executive Board meeting on August 26, 2003, the month before the NLRB Regional Director's letter described above, contained the following statement,

President Hamilton then discussed the on-going problems with the movie referral list and informed the board that a new set of rules were being illustrated in hopes that the new rules will be problem free and fair for all on the list. We are trying to avoid any more crap at the labor board. Everyone will be kept informed.

(Ex. 114) Although the Local in September 2003 was required to post a notice stating that it would not fail to follow its referral rules, as detailed below, subsequent to this, the Local continued to fail to follow its referral rules. The whole Executive Board was on notice.

**G. 2001 Trade Show Industry Referral Rules**

In May 2001, after the IRB's 2000 report, the Local also created written referral rules for the trade show industry. (Ex. 99) Pursuant to these rules, the Local created two referral lists for the trade show industry. (Ex. 99) The A list consisted of eight individuals "who have the highest combination of years of experience in this industry and the number of productions, events and shows." (Ex. 99 at 2) The A list was "arranged in industry experience order." (Ex. 99 at 2) The B list consisted "of all other eligible individuals arranged in industry experience order." (Ex. 99 at 3) Under the rules,



[t]he Union will refer individuals to the Convention Center from the "A" List in industry experience order before all other individuals. Once the "A" List is exhausted, the Union will refer to the Convention Center individuals on the "B" list in industry experience order.

(Ex. 99 at 3) As discussed below, the trade show referral rules explicitly provided that to be referred to work, an individual must be current in his Local 107 dues or service fees. (Ex. 99)

These trade show referral rules required the Local to maintain records of all aspects of referrals. (Ex. 99 at 4) As discussed below, the Local did not comply with this requirement. Frasco testified that records from the Health and Welfare or Pension Funds would reflect who worked in the trade show industry. (Ex. 4 at 38, 57)

As of April 30, 2008, the seniority list at the PCC consisted of six individuals. (Ex. 100) They were PCC steward Michael Conway, his brother Frank Conway, Michael Bell, John Griffith ("Griffith"), Joseph Voelker and Joseph Guglielmucci. (Ex. 100) The April 1, 2008 to March 31, 2011 Local 107 collective bargaining agreement with Elliott Lewis, which covered work at the PCC, provided "Teamster Local 107 (Union) shall be the supplier of all labor calls." (Ex. 101 at 1)

Former Local 107 dispatcher Dooley testified that after the members on the PCC seniority list were working, M. Conway, then the steward at the PCC, decided who worked. (Ex. 67 at 15) M. Conway, who was the PCC steward until approximately September 2009 when his brother replaced him, testified that he, as steward, would fill the labor calls at the PCC and other venues. (Ex. 102 at 24-25) The PCC steward was elected by the members on the PCC seniority list. (Ex. 32 at 103-104) In addition, Frasco testified that he also sent people to work in the trade show industry. (Ex. 4 at 58)<sup>26</sup>

#### **H. The IRB's Investigation**

In March 2008, after receiving members' complaints regarding the Local's referral practices, the IRB conducted a books and records examination at Local 107. (Ex. 65) Starting in August 2008, the IRB also examined thirty-five members in the movie and trade show industries, including four members who worked as movie captains.<sup>27</sup> In addition, the sworn examination of Aaron Skalka ("Skalka"), the Local 399 Transportation Coordinator for the large budget SONY

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<sup>26</sup> The Customer Satisfaction Agreement between the Pennsylvania Convention Center Authority and various labor unions, including Local 107, provided that Elliott Lewis Corporation, the company that employed the workers at the PCC, and trade show contractors may call individuals by name to work. (Ex. 169 at 2-3, 5)

<sup>27</sup> The members who worked as movie captains were the following: M. Conway, F. Conway, Sullivan and G. Cimino.

movie production filmed in Philadelphia in 2009, was conducted. Local 107 officers Hamilton, Frasco and S. Dougherty were also examined.

In response to an August 8, 2008 IRB document request for all referral lists for the period from January 2006 to August 2008, Local 107 attorney Kohn wrote, ". . . The Local is not able to provide copies of 'all versions of all referral lists' as requested, because as the lists change, copies of the old lists are not retained." (Exs. 103 and 104)

According to Frasco, for each movie since 2004, he kept a list of who worked on the movie. (Ex. 4 at 42-43, 67-68) The Local's records did not contain information regarding when an individual started to work or how long he worked on any production. (Exs. 105-106) Frasco acknowledged that his lists were not necessarily in the order of when someone started working on the movie. (Ex. 4 at 67-69)

Regarding records reflecting who worked at the PCC and other trade show venues, Frasco testified that only records from the Health and Welfare Fund or Pension Fund, which were not Local records, would indicate the amount of work someone received in the trade show industry. (Ex. 4 at 86) The Local did not maintain any such records despite the

specific requirement of its rules. (Ex. 99 at 4) Rather, in response to an IRB document request for all individuals who worked in the trade show industry between September 2005 and September 2008 (Ex. 107), the Local provided a printout from the Health and Welfare Fund which indicated only whether an individual worked in a particular month at the PCC and other trade show venues. (Ex. 108) The records the Local produced from the Health and Welfare Fund did not indicate the dates worked or the number of hours any individual worked in the trade show industry. (Ex. 108)

The Local's collective bargaining agreements in the movie and trade show industries required employer contributions to the Local 500 Severance Fund ("Severance Fund"). (Exs. 101, 109-110) Frank Vaccaro and Associates ("Vaccaro") administered the Severance Fund. (Exs. 101, 109-110) On February 20, 2009, based upon an IRB application, District Court Judge Loretta A. Preska issued a subpoena which required Vaccaro to produce records regarding Local 107 employer contributions to the Severance Fund as well as records reflecting the hours individuals worked. (Ex. 111) The subpoena also required Vaccaro to produce records from the Local 107 Vacation Fund, which was funded through payroll deductions from the pay of Local 107

members employed at the PCC and which Vaccaro administered.  
(Ex. 111)

### **I. Modified Movie Referral Rules**

Sometime prior to March 2008, when the IRB's books and records examination was conducted, the Local modified the 2001 written movie referral rules. (Ex. 5) No one at the Local knew when. While they recognized the document reflecting these amended rules, neither Hamilton nor Frasco were able to state when these rules were amended. (Ex. 3 at 51-52; Ex. 4 at 31-33)<sup>28</sup> These modified rules created a single movie referral list instead of the A and B lists the 2001 rules required. (Ex. 5) According to the modified rules,

[t]he individual placement [on the movie referral list] shall be based upon the highest combination of:

Driving Experience

CDL Qualifications

Industry experience

Specialty Equipment

(Ex. 5 at 2) The Local produced these written modified rules during the March 2008 IRB records examination in response to a request for the current movie referral rules. (Exs. 5 and 112) Although these rules provided for a

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<sup>28</sup> The August 26, 2003 Executive Board minutes referenced a "new set of rules" (Ex. 114), but it was unclear whether these were the rules.