

During his sworn IRB examination, Burhoe testified that he instructed Ling as to which members to hire for the Bridal Exposition Show because Ling had no knowledge of the members' qualifications. (Ex. 79 at 51-52) Burhoe allegedly made his recommendations based on his knowledge of members' qualifications. (Ex. 79 at 51-52) It is evident Burhoe's selections were based on non-objective criteria.

Burhoe selected his brother, John J. Bowden, who has never been a member of Local 82 or the IBT, and his mother, Jones, who was then on withdrawal from the Local, to work for Demers in January 2009.⁵⁵ (Ex. 117; Ex. 224; Ex. 225; Ex. 79 at 12-13) In addition, Burhoe selected his friend Flaherty and Flaherty's wife M. Flaherty, who was also on withdrawal and selected his other friends Deamicis and Brassil. (Ex. 224; Ex. 6 at 107-110; Ex. 79 at 8-9, 26-27; Ex. 118; Ex. 59 at 16, 18) In addition, Burhoe selected a childhood friend, John Fidler, who had never been a member of the IBT and paid no service fees. (Ex. 79 at 27; Ex.

⁵⁵ According to IBT records, Jones joined Local 82 in November 2007. (Ex. 117) She was issued a withdrawal card from Local 82 in December 2007 and deposited her withdrawal card on January 30, 2009, after she worked the Bridal Exposition Show. (Ex. 117; Ex. 224) Accordingly, when Burhoe selected his mother to work the Bridal Exposition show, Jones was on withdrawal. (Exs. 117 & 224)

224)⁵⁶ Burhoe also selected three of Perry's relatives, his son Brian and his nephews Kevin and James. (Ex. 224; Ex. 79 at 8-9, 26-27; Ex. 6 at 107, 109-110)

ii. May 2009

In May 2009, Demers employed Local 82 members during a second show that it ran through Union Payroll. (Ex. 79 at 49-50; Exs. 350-351) Forty-six Local 82 members worked a total of 1,101.5 hours and received \$47,327.03 for the job. (Exs. 351 & 352) During his sworn IRB examination, Burhoe testified,

I helped get the labor call. I knew everything that went into this. I had to make sure 100 percent of this was mine.

(Ex. 79 at 49-50) As he did before, Burhoe referred his friends and relatives to work. Burhoe, Young, and Flaherty worked the job. (Exs. 350 and 351)⁵⁷ Burhoe also referred his mother, Jones, and Flaherty's wife, M. Flaherty, and his own friends Brassil and Deamicis to work. (Exs. 350 & 351)

In addition, Burhoe, referred six of Perry's relatives to work the job. For example, Burhoe referred Perry's son,

⁵⁶ According to IBT records, M. Flaherty joined Local 82 on November 1, 2007. (Ex. 118) M. Flaherty took a withdrawal card from Local 82 on June 2, 2008. (Ex. 118) On January 22, 2010, M. Flaherty deposited her withdrawal card. (Ex. 118) Accordingly, when Burhoe selected M. Flaherty to work the Bridal Exposition Show, M. Flaherty was on withdrawal. (Ex. 224; Ex. 118)

⁵⁷ As discussed above, Maguire was incarcerated in May 2009. (Ex. 83 at 17-19)

Brian M. Perry, Perry's brother Robert M. Perry, Perry's nephews, James M. Perry Jr., Kevin C. Perry, and Dennis McCarthy, and Perry's cousin Joseph Dizoglio. (Exs. 350 & 351; Ex. 6 at 145-147)

As discussed above, Local 82 member Barry filed a grievance when he did not get work on this show. (Ex. 355; Ex. 153 at 33, 37) A handwritten notation on the grievance which Union Payroll produced to the IRB under subpoena stated "Per John, Ignore it. "82 does the organizing" "not UPA" M.W." (Ex. 355)

8. Shepard Decorating Company

Shepard is a trade show employer that has had a collective bargaining agreement with Local 82 since 2003. (Ex. 349) Perry did not enforce the contract provision that required Shepard to maintain a seniority list. (Ex. 79 at 96-97) The Shepard contract provided the Local would refer labor when the seniority list was exhausted. (Ex. 38) As he did with Union Payroll, Burhoe, with Perry's knowledge, assumed the Local's role and referred members to work for Shepard. (Ex. 79 at 94; Ex. 38)

In 2009, seventy-five Local 82 members worked a total of 3,668 hours for Shepard. (Exs. 226-227) Burhoe worked the most hours for Shepard of any Local member. (Exs. 226-227) The ten members who worked the highest number of

hours for Shepard in 2009 included Burhoe, Burhoe's father Maguire, Flaherty, Local 82 Recording Secretary Milisi, and Secretary-Treasurer Perry's nephew Kevin Perry. (Exs. 226-227; Ex. 88) Geary and Deamicis worked the eleventh and twelfth highest number of hours for Shepard in 2009. (Exs. 226-227)

In 2008, only six Local 82 members worked for Shepard. Together, the six members worked 145 hours. (Ex. 88; Exs. 226-227) All but one of the six Local 82 members who worked for Shepard in 2008 had close ties to either Secretary-Treasurer Perry or Burhoe. (Exs. 226-227; Ex. 79 at 94-98) For example, in 2008, Secretary-Treasurer Perry's brother Brian Perry and his cousin J. Dizoglio, as well as Burhoe, Deamicis and Flaherty worked for Shepard. (Exs. 226-227; Ex. 88)

9. Arata Exposition Services, Inc.

Arata is a trade show employer that has had a collective bargaining agreement with Local 82 since at least 2009. (Ex. 6 at 61; Ex. 184) Despite the requirement in Arata's collective bargaining agreement, Perry did not require that Arata maintain a seniority list. (Ex. 184; Ex. 6 at 62-63) Instead, Perry permitted Burhoe to exercise the Local's contractual role to refer members to work for

Arata. (Ex. 79 at 94-95, 103) Burhoe's referrals were not based on objective criteria or any fair methods.

In 2009, thirty-one Local 82 members worked a total of 1,350 hours for Arata. (Ex. 88; Exs. 228-229) Nine of the ten Local 82 members who worked the highest number of hours for Arata in 2009 had close ties to Burhoe or Perry. (Ex. 88; Exs. 228-229)⁵⁸ Burhoe, his father Maguire, Flaherty and Young worked the most hours for Arata. (Ex. 88; Exs. 228-229) Michael Kupperstein ("Kupperstein"), who Burhoe described as the individual he selected after his "four main guys" whenever he needed someone to do metal work, and Michael Doe ("M. Doe"),⁵⁹ the nephew of Burhoe's friends Arthur and Ronald Doe, worked the fifth and sixth highest number of hours.⁶⁰ (Exs. 228-229; Ex. 79 at 39, 11; Ex. 121

⁵⁸ These individuals were Burhoe, Maguire, Flaherty, Young, Michael Kupperstein, Michael Doe, Deamicis, M. Flaherty and Kevin Perry. (Exs. 228-229)

⁵⁹ On May 24, 2010 the IRB recommended that Michael Doe be charged with failing to cooperate with the IRB when he failed to appear for his properly noticed IRB sworn examination. (Exs. 230) During his IRB sworn examination, the Chief Investigator planned to question Michael Doe about issues including, but not limited to, the hiring and referral practices at Local 82. (Ex. 230) On June 15, 2010, the Local 82 Executive Board filed the IRB-recommended charge. On July 20, 2010, following a hearing, for which Michael Doe failed to appear, the Local 82 Executive Board permanently barred Michael Doe from membership in Local 82. (Ex. 231)

⁶⁰ Ronald Doe testified that Burhoe was friends with his brother, Arthur Doe, in the late 1980s. Doe testified,

They had worked together at an ice cream place in Charlestown, International Ice Cream, and they had gone to a young lady's house for a couple of beers after work one night and three masked men went in there and murdered the girl and shot both of them.

at 49-50; Ex. 137 at 6-7) Also included among the ten members who worked the most hours for Arata in 2009 were Burhoe's friend Deamicis, Flaherty's wife M. Flaherty, and Perry's nephew Kevin Perry. (Exs. 228-229; Ex. 79 at 9-10; Ex. 6 at 109; Ex. 59 at 16, 18) Four additional Perry relatives and Burhoe's mother Jones also worked for Arata in 2009. (Ex. 88; Exs. 228-229, Ex. 79 at 13)⁶¹ In 2009, Perry's and Burhoe's relatives worked 50% of the total hours Local 82 members worked for Arata. (Exs. 228-229, 232)

The previous year, 2008, twenty-six individuals worked a total of 956 hours for Arata. (Exs. 228-229) Eight of the twenty-six individuals who worked for Arata in 2008 were related to Perry. (Ex. 6 at 145-147; Exs. 228-229)⁶² Seven of these eight Perry relatives were members of another

(Ex. 121 at 47-49, 51-52) Doe testified that he had known Burhoe since childhood and that Burhoe has known Ronald Doe since childhood. (Ex. 121 at 14) As discussed above, Burhoe and Doe were assigned to the same halfway house in 2007. (Ex. 121 at 9-10) During his sworn examination, Burhoe described Ronald Doe as follows, "Ronnie is a sweetheart. He's a nice guy. I've known Ronnie since I was four years old. The unluckiest crook you ever met in your life." (Ex. 79 at 11)

⁶¹ Perry's relatives were his son Brian M. Perry, his nephew James M. Perry, Jr. and his cousins Trustee Dizoglio and J. Dizoglio. (Exs. 228-229; Ex. 6 at 145-147)

⁶² Perry's relatives were James M. Perry, James M. Perry, Jr., Kevin C. Perry, Brian Perry, Brian M. Perry, Frederick J. Perry, James M. Perry and Edward Welch. (Exs. 228-229; Ex. 6 at 70, 145-147)

company's seniority list.⁶³ (Ex. 88; Exs. 228-229; Ex. 22)
The six individuals who worked the most hours for Arata in 2008 were Burhoe, Perry's brother, James Perry, Perry's nephews, James M. Perry, Jr. and Kevin Perry, Flaherty, and Young. (Exs. 228-229)

10. Heritage

Heritage is a trade show employer. Heritage had a collective bargaining agreement with Local 82 covering the period between April 1, 2006 and March 31, 2009. (Ex. 37) Burhoe admitted that he referred members to work for Heritage. (Ex. 79 at 94-95, 102) Heritage does not currently have a collective bargaining agreement with Local 82. (Ex. 61; Ex. 79 at 94-95, 102) According to Burhoe, Heritage now subcontracts through Union Payroll. (Ex. 79 at 94-95, 102)

Records the Savings and Investment Fund and the Health and Welfare Fund produced under subpoena showed that in May 2008, when Heritage was under contract with Local 82, twenty-six Local 82 members worked a total of approximately 605 hours for Heritage. (Exs. 234-235; Ex. 37) Seventeen of these twenty-six members had close ties to Burhoe or Local

⁶³ Perry's brother Frederick Perry was on the Freeman seniority list. (Ex. 20) Brian M. Perry, James Perry, Edward Welch, Brian Perry, James Perry, and James M. Perry were all on the GES seniority list. (Ex. 22) Kevin Perry, who joined Local 82 in 2005, received a spot on the GES seniority list in 2009. (Ex. 141 at 10, 14-15)

officers, including Perry. (Exs. 234-235) Six of Perry's relatives, including his brother Robert Perry, his nephews Kevin and James Perry, and Dennis McCarthy, and his cousins Francis and Joseph Dizoglio worked for Heritage in 2008. (Exs. 234 and 235; Ex. 6 at 145-147) In addition, Vice-President Thornton's three children, Annar, Zachary, and Valerie Thornton and Recording Secretary Milisi's son-in-law, Stephen Ouellette, worked for Heritage in May 2008. (Exs. 234-235; Ex. 23 at 20-23; Ex. 25 at 56) Besides the Local officers' relatives, Burhoe and six members who had close ties to Burhoe also worked for Heritage. (Exs. 234-235) Burhoe's friend Flaherty, worked more hours than any other Local member. (Exs. 234-235; Ex. 79 at 8-9) Burhoe worked the second highest number of hours. (Exs. 234-235) Burhoe's friends, Young, R. Doe, Bernard "Beau" Piscopo, and Robert Simpson ("Simpson") also worked for Heritage in May 2008.⁶⁴ (Exs. 234-235; Ex. 79 at 11-12, 29-30, 45)

According to records the Pension Fund produced, in 2008, while Heritage had a collective bargaining agreement with Local 82, Heritage did not make the benefit fund contributions to that Fund that its collective bargaining agreement with Local 82 required. (Ex. 37, 88, 236)

⁶⁴ Burhoe testified that he met Robert Simpson in the 1990s when he visited his brother, John Bowden, who was incarcerated with Simpson at the time. (Ex. 79 at 11-12)

Pursuant to the Local 82 Heritage collective bargaining agreement, Heritage was required to contribute \$5.63 per hour worked up to a maximum of 50 hours per week. (Ex. 37 at 40) The contributions Heritage should have been required to make on behalf of Local 82 members who worked for the company in 2008 totaled approximately \$3,408.97. (Exs. 37 and 236)

11. Paramount⁶⁵

In 2009, fourteen Local 82 members worked a total of 283 hours for Paramount.⁶⁶ (Exs. 88, 233) The majority of the Local 82 members who worked for Paramount in 2009 were friends and relatives of Burhoe's and Perry's. (Exs. 88, 233)⁶⁷ Burhoe worked more hours for Paramount than any other Local 82 member. (Exs. 88, 233) Two of Perry's relatives, including his nephew, Kevin Perry, and his cousin, J. Dizoglio, worked for Paramount in 2009. (Exs. 88 & 233; Ex. 6 at 145-147) In addition, Burhoe's mother,

⁶⁵ In response to document requests from the Chief Investigator for all Local 82 collective bargaining agreements, neither Local 82 nor the IBT produced any collective bargaining agreement with Paramount. (Exs. 61, 378-380) According to records the Funds produced, Paramount has been making contributions on behalf of Local 82 members since at least 2006. (Ex. 88) In light of this, it is not clear whether there was a collective bargaining agreement with Paramount.

⁶⁶ According to Pension Fund records the New England Teamsters and Trucking Industry Pension Fund provided, it does not appear that any Local 82 members worked for Paramount in 2008. (Ex. 88)

⁶⁷ These individuals were Burhoe, Perry's nephew Kevin Perry, his cousin J. Dizoglio, Burhoe's mother Jones, Deamicis, Federico and Beau and Justin Piscopo. (Ex. 233)

Jones, and Burhoe's friends, including Deamicis, B. Piscopo, and Vincent Federico ("Federico"), who was incarcerated with Burhoe's father, were among the fourteen Local 82 members who worked for Paramount in 2009.⁶⁸ (Ex. 88; Ex. 233; Ex. 79 at 9-10, 13, 29; Ex. 83 at 8-10) Federico met Burhoe's father, Maguire, and Deamicis in prison in the 1990s. (Ex. 83 at 8-9; Ex. 60 at 10)

12. Additional Companies

From the pattern of referrals, it appears that Burhoe referred members to work for more companies than the five companies, Union Payroll, Arata, Paramount, Shepard, and Heritage, that he admitted to during his sworn examination. (Ex. 79 at 94-95) For example, Local 82 had a collective bargaining agreement with the trade show employer Maxum. (Ex. 189) Maxum, like the companies to which Burhoe admitted referring members to work, did not have a seniority list. (Exs. 79 at 94-95; 54-55; Ex. 189) In addition, as discussed below, Burhoe, his friends, including Flaherty, Deamicis, and Young and several Perry

⁶⁸ On February 22, 2010, the IRB recommended that a charge be filed against Federico for bringing reproach upon the IBT by being a member of the Patriarca organized crime family. (Ex. 237) On March 1, 2010, General President Hoffa filed the IRB-recommended charge. (Ex. 237) On July 22, 2010, following a hearing on the charge, the IRB found that Federico was a member of organized crime and permanently barred Federico from the IBT. (Ex. 238) On August 5, 2010, United States District Court Judge Loretta A. Preska affirmed the IRB's decision. (Ex. 308)

relatives, were referred to work for Maxum in 2008 and 2009. Given Perry's failure to require that Maxum have a seniority list and the fact that Burhoe's friends and Perry's relatives were referred to work, it appears that Burhoe referred members to work for Maxum.

In 2008, twelve Local 82 members worked 225 hours for Maxum. (Ex. 241) Burhoe, Flaherty, Deamicis, and Young worked 164 of the 225 hours, or 72% of the total hours. (Exs. 239-241) In addition, Burhoe's friend Piscopo and Perry's son Brian M. Perry worked for Maxum in 2008. (Ex. 6 at 145-147; Ex. 79 at 29) The next year, 2009, eighteen Local 82 members worked 371 hours for Maxum. (Ex. 239-242) Burhoe, Flaherty, Young, and Deamicis worked more hours than any other Local 82 members. (Ex. 239-242) The nine members who worked the highest number of hours for Maxum in 2009 were all friends or relatives of Perry's and Burhoe's. (Ex. 242) The nine members who worked the most hours for Maxum in 2009 were Burhoe, Burhoe's friends Flaherty, Deamicis, Young, Brassil, Burhoe's mother Jones, Perry's son Brian and Perry's nephew James and Perry's cousin J. Dizoglio. (Ex. 242) These nine members worked 289 of the 371 hours, which was approximately 77% of the total hours worked. (Ex. 239-242) In addition to those nine members, Burhoe's friend, R. Doe, and Perry's nephew, James M.

Perry, Jr. were among the eighteen Local 82 members who worked for Maxum in 2009. (Exs. 239-242; Ex. 79 at 11-12; Ex. 6 at 146)

13. Perry's Collusion With Burhoe

Perry, who had avoided establishing any non-arbitrary system for referring Local 82 members to work and deliberately ignored contractual provisions with some employers requiring seniority lists, allowed Burhoe, a felon he knew was barred under 29 U.S.C. § 504, to function as a Local representative to refer members for work in violation of federal law. Perry and Burhoe were in frequent telephone contact. In 2008, there were, at least, 733 phone calls between them. (Exs. 127-128, 243) In 2009, there were, at least, 564 calls. (Exs. 127-128, 244) Yet, despite these hundreds of calls, Burhoe claimed that he did not discuss with Perry his referral of members and others to several of the Local's smaller trade show employers, including Union Payroll, Shepard, Arata, Paramount, and Heritage. (Ex. 79 at 42-43) Burhoe did acknowledge if Perry was ignorant, it was because Perry chose to be. (Ex. 79 at 97) When asked if Secretary-Treasurer Perry was aware of his involvement in hiring Local 82 members at one trade show employer, Burhoe responded,

I'll put it this way: If he wants to be aware of it, he's aware of it.

(Ex. 79 at 97)

Perry knew of Burhoe's Title 29 prohibition from acting as a Local representative. (Ex. 6 at 86) In violation of this, Perry allowed Burhoe to fill the Local's role under the contract. Moreover, Perry did nothing to ensure that Burhoe referred members to work in a fair and objective way. (Ex. 6 at 147-148, Ex. 79 at 41-43) He never discussed with Burhoe any requirements or guidelines Burhoe should follow in referring members to work. (Ex. 6 at 147-148; Ex. 79 at 43-44, 73)

Perry is the only paid full time officer and business agent in the Local. He is the Director on a national level of the IBT's Trade Show Division. He abandoned his obligation to ensure fair treatment to all members and, instead, furthered his and Burhoe's family interests and the interests of their friends and political allies to the detriment of other members and in violation of federal law. As Local Secretary-Treasurer in knowingly assisting Burhoe to violate a federal criminal statute, Perry placed the Local itself in jeopardy of being liable for violating the criminal law.

H. Manipulation of Voting on Ratification of Trade Show Industry Collective Bargaining Agreements

In 2009, it appears that during the voting on ratification of the Local's trade show collective bargaining agreements, without the required Executive Board approval in violation of the Local's Bylaws, Secretary-Treasurer Perry, President Geary and the unelected Local insiders determined which members were eligible to vote on the collective bargaining agreements. (Ex. 6 at 54; Ex. 15 at 50-54) They did so in an arbitrary and selective manner, apparently designed to ensure the passage of a contract the members had twice previously rejected.

According to Section 14(A)(13) of Local 82's Bylaws, the Executive Board is empowered to:

Determine the membership which shall vote on agreements and strikes, and the composition of other membership meetings, and adopt rules and regulations concerning the conduct thereof not inconsistent with the International Constitution or these Bylaws.

(Ex. 245)

In a September 17, 2009 response to a document request from the Chief Investigator, Secretary-Treasurer Perry described the policy to determine a member's eligibility to vote on contract ratifications as follows:

Members vote only on one contract. List employees vote for the companies which they have seniority for.

If someone works the same amount for more than one company, they are able to choose which contract to vote on. This is the only procedure, policy, rule or regulation governing Collective Bargaining Agreement ratification votes.

(Exs. 246 & 247) During his IRB sworn examination, Perry testified that list men were required to vote on the contract for the company on whose list they were and spares were required to vote on the contract for the company for which they worked the majority of their hours. (Ex. 6 at 47) As Perry acknowledged in a letter dated July 2, 2010, in response to a document request from the Chief Investigator, there were no written policies, rules or regulations governing collective bargaining agreement ratifications. (Ex. 248) In violation of the Bylaws, it does not appear that the Executive Board ever approved the policy Perry described above and which he claimed he was enforcing, as the Bylaws required. (Ex. 248)

Moreover, as detailed below, Perry did not uniformly enforce the eligibility policy described in his September 17, 2009 letter. (Ex. 246) Rather, in 2009, Perry and Geary and their assistants, on an arbitrary and selective basis, decided which members could vote on a controversial proposed contract the members had previously rejected. As discussed below, the proposed contract was controversial because it abandoned language commonly referred to as "2003

language" that gave members who had experience relevant to the trade show industry prior to April 1, 2003 hiring preference over members who lacked such experience. (Exs. 31-33; Exs. 197-199; Exs. 249-250; Ex. 146 at 17-19) The removal of the language would have benefited Burhoe's and Perry's use of referrals to award favorites with employment at the expense of other members. It appears that Perry and his designees manipulated the voting process, in order to ensure that the contract, which removed the controversial "2003 language", was passed.

1. Lack of Executive Board Approved Rules

The Local's Bylaws empower the Executive Board, not the Secretary-Treasurer, to determine the members eligible to vote on collective bargaining agreements. (Ex. 245) The Board never adopted rules and regulations for determining eligibility that the Bylaws empowered it to adopt. (Ex. 248; Ex. 6 at 53-54)

During his sworn IRB examination, Perry asserted that he could not remember if the Executive Board officially approved the policy he described above. (Ex. 6 at 53-54) Despite IRB requests, no Executive Board meeting minutes were produced to show that it had. (Exs. 248 & 251) Nor could Perry recall whether the policy was memorialized anywhere. (Ex. 6 at 53-54; Exs. 248 & 251) No document

reflecting the policy was ever produced. In a letter dated July 2, 2010, in response to a document request from the Chief Investigator following Perry's sworn examination, Perry responded,

From the transcript it is clear that I cannot point to a specific vote of the Executive Board adopting this practice. However this practice has been followed for at least the last three contract negotiation cycles. .

(Ex. 248 at 2) That Perry has been violating the Bylaws for over ten years only aggravates the harm.

The Local produced no documents showing as to how members would have been alerted to the voting policy. (Ex. 248) During his IRB sworn examination, when asked who determined which members were eligible to vote on each contract, Geary answered,

The Bylaws, which state that you can vote for the company that you are a list man of or work most for.

(Ex. 15 at 50-51)⁶⁹ Contrary to Geary's assertion, no such provision existed in Local 82's Bylaws. (Ex. 245) President

⁶⁹ During his sworn IRB examination, President Geary testified as follows with respect to the 2009 trade show collective bargaining agreement ratifications:

- Q. Who determined who was eligible to vote on each contract?
- A. The Bylaws, which state that you can vote for the company that you are a list man of or work most for.
- Q. Is that written in the Local 82 Bylaws?
- A. I believe so.
- Q. Do you know when that provision became a part of the Local 82 Bylaws?
- A. It's been there a while, as far as I know.

(Ex. 15 at 50-51)

Geary testified that he and Secretary-Treasurer Perry enforced the policy he erroneously claimed was found in the Bylaws. (Ex. 15 at 51-52) Moreover, as discussed below, it appears that, to the extent there was such a policy, it was selectively enforced during the 2009 collective bargaining agreement ratifications.

2. The Local's Past Practice Regarding Trade Show Contracts

Perry also proffered past practice to justify what he was doing in violation of the Bylaws. (Ex. 248; Ex. 6 at 49-50) Instead, his repeated pattern of violating the Bylaws is an aggravating factor. Moreover, even as to past practice, the record does not support him. There was inconsistent testimony concerning the Local's past practices regarding collective bargaining agreement ratifications. Perry, himself, vacillated on the point. (Ex. 248; Ex. 6 at 49-51) Initially, he testified that the Local had always followed its present policy he alleged was enforced in 2009 with regard to the ratification of collective bargaining agreements. (Ex. 6 at 49) However, Perry also testified that approximately 12 to 15 years ago, all members employed in the trade show industry voted on the Freeman contract because Freeman was the Local's largest employer. (Ex. 6 at 49) Perry testified that at a

subsequent point, the Local changed its policy and began holding separate ratifications for each employer because the number of employers increased. (Ex. 6 at 49-50) Perry was the Local's principal officer when he claimed this policy changed. (Ex. 6 at 49-51; Ex. 4) There were no documents or minutes reflecting that either the members or the Executive Board were ever informed of the alleged change in policy. (Ex. 248)

Local 82 officers, including President Geary and Vice President Thornton, acknowledged that the policy concerning contract ratifications had changed at some point from all spares voting on the Freeman contract to separate ratifications being held for each company. (Ex. 15 at 66-67; Ex. 23 at 12-14, 36-37) Several members testified that until the 2006 vote, all Local 82 members who worked in the trade show industry voted on the Freeman collective bargaining agreement because Freeman was the Local's largest employer. (Exs. 146 at 35-37; Ex. 145 at 22; Ex. 43 at 26-27; Ex. 139 at 14-15, 44; Ex. 144 at 12; Ex. 154 at 34-35; Ex. 153 at 16; Ex. 152 at 40-42) Once the Freeman collective bargaining agreement passed, any other company that wanted to have a trade show collective bargaining agreement with Local 82 adopted the same contract. (Ex. 146 at 35; Ex. 145 at 23, Ex. 43 at 26-27; Ex. 152 at 40-

42; Ex. 139 at 14-15; Ex. 144 at 12; Ex. 154 at 34-35; Ex. 153 at 22) These members testified that in 2006, for the first time, the Local held separate ratifications for its two largest employers, GES and Freeman. (Ex. 146 at 35-36; Ex. 145 at 24-31; Ex. 43 at 26-27; Ex. 139 at 43-45; Ex. 144 at 12-13; Ex. 154 at 36; Ex. 153 at 21-23) What the evidence showed is that members were allowed to vote not pursuant to an Executive Board authorized rule uniformly enforced but pursuant to the whim of John Perry.

3. The Controversial 2009 Ratification Votes

The 2009 collective bargaining agreement ratifications for trade show employers were controversial because the proposed contracts removed language commonly referred to as the "2003 language." (Ex. 146 at 24-31; Ex. 43 at 21-22; Ex. 139 at 16; Ex. 144 at 27-28; Ex. 154 at 37; Ex. 153 at 34) The "2003 language", which the members had first approved during the 2003 collective bargaining agreement ratification vote, gave members with experience relevant to the trade show industry prior to April 1, 2003, hiring preference over those who did not have such experience before that date.⁷⁰ (Ex. 19; Exs. 197-199; Ex. 249) It

⁷⁰ Article 26, Section 5 of the trade show collective bargaining agreements covering the period April 1, 2003 to April 1, 2006 and April 1, 2006 to April 1, 2009, provided

appears that Perry and his co-schemers under the cloak of his authority manipulated the eligibility of members who were able to vote on the contracts to ensure that the controversial contracts, which eliminated the "2003 language", passed.

The proposed Local 82 collective bargaining agreement with Freeman was first presented to the members employed by Freeman on March 31, 2009. (Ex. 248) The members voted down the proposed contract. (Ex. 248) On April 18, 2009, a substantially modified Freeman collective bargaining agreement was again presented to the members and again voted down. (Ex. 248) Both these rejected contracts omitted the 2003 clause. (Ex. 248) A Freeman contract was ultimately ratified on June 22, 2009 without the clause. (Ex. 248; Ex. 253) Unlike the previous two votes, this last vote was held not at Local 82, but at Local 25 in Charlestown, MA. (Ex. 248) According to the sign in sheet

Whenever the Company's seniority list has been exhausted and the Company needs additional labor, the Company shall take the availability of suitable applicants. The Company will provide a period of not less than two (2) hours for calling in availability. The Company shall fax its preferences to the Union by noon on the day prior to the workday being scheduled. The Union shall fax any objections to the Company by 1:00P.M. Such applicants shall have had relevant trade show experience prior to April 1, 2003. However, if the Union is unable to provide suitable applicants the Company may go to other sources to fill its labor needs, including applicants who have had no trade show experience prior to April 1, 2003. . .

(Exs. 19; 91, 197-199; 249, 252)

the Local provided, the vote passed on June 22, 2009 by a count of 89-50. (Ex. 253) Over 200 members had voted on the April 18, 2009 Freeman contract, when the members did not approve the agreement. (Ex. 15 at 54) The Local did not keep any records of that vote or the other Freeman vote in which the members rejected the contract. (Exs. 155 & 158)

Between April 18, 2009, when the Freeman contract was voted down and June 22, 2009, when the Freeman contract was ratified, a contract with the same language was presented at the Local to members for three other companies, GES, Brede, and Champion. (Ex. 248) These contracts were ratified. The GES collective bargaining agreement was presented to and ratified by members allowed to vote on April 26, 2009.⁷¹ (Exs. 248 & 254) The Brede contract was ratified on May 19, 2009 at the Union hall.⁷² (Exs. 248 & 255) Following the GES ratification, the Champion contract

⁷¹ According to the sign-in sheet the Local provided, the vote passed by a count of 67-13. (Ex. 254) The sign-in sheet the Local provided listed the names and signatures of eighty Local 82 members. (Ex. 254) It appears that only seventy-nine of the members who signed in voted on the contract. According to Deamicis and a sworn affidavit provided by member James McNiff, McNiff was not permitted to vote. (Ex. 60 at 58; Ex. 271; Ex. 116) According to Deamicis, after Deamicis permitted McNiff to enter the Local, "someone" escorted him out. (Ex. 60 at 58) Deamicis claimed he could not see who escorted McNiff out. (Ex. 60 at 58) According to McNiff, Robert Perry told McNiff he could not vote on the GES contract. (Exs. 271 & 116)

⁷² According to the sign in sheet the Local provided, the Brede contract passed by a vote of 6-3. (Ex. 255)

was presented at Local 82 on May 20, 2009 to both Local 82 and Local 653 members and voted down.⁷³ (Ex. 248) On June 16, 2009, the same Champion contract was presented at the Champion warehouse in Middleboro, MA. (Ex. 248) It was ratified by Local 653 and Local 82 members who were allowed to vote.⁷⁴ (Exs. 248 & 256)

4. Perry and His Designees Selectively Enforced the Policy for Determining Members' Eligibility to Vote

a. The Policy for Determining Eligibility to Vote Was Never Clear

⁷³ Champion has trade show collective bargaining agreements with Local 82 and Local 653. (Exs. 33 and 188) The Champion seniority list for employees in the trade show industry included members of Local 82 and Local 653. (Ex. 44; Ex. 210) Accordingly, as it had in the past, Local 82 permitted Local 653 members who were on Champion's seniority list to vote on Local 82's collective bargaining agreement with Local 82. (Ex. 162 at 12-15) Eight of the twenty-four members on Champion's seniority list were Local 653 members. (Ex. 44; Ex. 210)

⁷⁴ On June 16, 2009, the Champion contract passed by a margin of 17-6. (Ex. 256) The Local 653 Champion steward, George Joseph, testified that he believed Perry scheduled the second ratification vote to be held at Champion's warehouse because several Local 653 members had been unable to attend the ratification at Local 82. (Ex. 162 at 11-12, 32-33) Joseph, who voted on both the June 16, 2009 Champion vote and the May 20, 2009 vote, testified that he had only voted on a Local 82 Champion contract one other time over the course of twenty-four years, during which he had been a member of Champion's seniority list. (Ex. 162 at 11, 18, 34) At least one Local 653 member who voted on the Local 82 contract on June 16, 2009, Andy Trask, appeared to have a management position with Champion. For example, on February 18, 2008 Trask, who was identified on Champion's internal directory as the Director of Operations - Region 1, signed a collective bargaining agreement with Teamster Local 107 on Champion's behalf. (Ex. 157 at 1; Ex. 257) Trask did not participate in the May 20, 2009 Champion ratification vote when the members did not approve the proposed contract, but voted when the extra votes were needed on June 16, 2009 for its approval. (Ex. 163 at 27; Ex. 256)

The Local did not uniformly enforce the policy that Perry asserted it followed in his September 17, 2009 letter and sworn testimony to the IRB. Local 82 President Geary testified that he and Secretary-Treasurer Perry determined which members were eligible to vote on each contract. (Ex. 15 at 50-52) One member when asked during his IRB sworn examination how members found out which contract they were eligible to vote on, responded, "A lot of them didn't know until they went to the door. . . ." (Ex. 146 at 38) The evidence demonstrated how arbitrarily Perry, Geary and their designees enforced the policy.

Perry testified that he appointed Local 82 members Flaherty and Young Sergeants at Arms during all of the trade show ratification votes. (Ex. 6 at 54-55) Perry was not certain whether he also had appointed Deamicis a Sergeant at Arms, as well. (Ex. 6 at 54-56)⁷⁵ The facts show that Deamicis acted in that capacity. (Ex. 60 at 49-58; Ex. 22; Ex. 262) Together with his appointed Sergeants at Arms, Perry claimed that he enforced the voting policy. (Ex. 6 at 54-56; Ex. 58 at 21-59; Ex. 59 at 27-33) The Local officers and the appointed Sergeants at Arms did not use any records in determining which members were eligible

⁷⁵ Deamicis was present at the Freeman and Champion votes even though he was on the GES list. (Ex. 60 at 49; Ex. 22)

to vote on a particular contract. (Ex. 58 at 24-25; Ex. 6 at 55-56)⁷⁶ According to Perry, that information was within their personal knowledge. (Ex. 6 at 55-56) Perry testified, "They just know. This local is small." (Ex. 6 at 55-56)⁷⁷ As the record reflects, their knowledge was at best seriously flawed, but most likely, they intentionally manipulated in an arbitrary fashion who could vote.

Flaherty admitted that Perry never described to him his responsibilities during the ratification votes. (Ex. 59 at 32) Nor were the Sergeants at Arms ever provided with any written rules or regulations governing the eligibility of members to vote on the ratifications. (Ex. 59 at 31-32) Flaherty and Young admitted that they decided who was eligible to vote on each contract. (Ex. 58 at 21-25, 29-30; Ex. 59 at 28-30) Young testified that he and Flaherty had an idea of who worked where so that was how they made eligibility determinations. (Ex. 58 at 21-23) Young

⁷⁶ Perry claimed that he only told two Local 82 members, Dave Corbitt, a spare, and Paul Shoulla, a list man for Nth Degree, that they could not vote on a particular contract. (Ex. 6 at 56-57) According to Perry, ultimately Corbitt chose which contract he voted on and Shoulla, as a list man for Nth Degree, was required to vote on their contract. (Ex. 6 at 49, 57) Although the Nth Degree contract expired in April 2009, as of June 2010, no ratification for Nth Degree had been held. (Ex. 6 at 59) Perry's claim that he only told two members is contradicted by others. (See Section 4(d) below)

⁷⁷ Perry's claim of omniscience made during the investigation conflicts with Perry's statement to the *Boston Herald* in 2007 when asked about the union membership of Federico, a member of the Patriarca Organized Crime Family. (Ex. 77) According to the article, in response, Perry claimed he had no idea if Federico was a Local 82 member, let alone the employers Federico worked for. (Ex. 77)

further testified that he relied on his memory to know who voted on what contract and when during each of the five different votes (3 Freeman and 2 Champion).⁷⁸ (Ex. 58 at 25) Flaherty, although policing who could vote, acknowledged that he was not certain what the policy for determining members' eligibility to vote actually was. (Ex. 59 at 30)

b. Perry and His Co-Schemers Permitted Several Favored Members to Vote on Multiple Contracts In Violation of the Alleged Policy

In violation of the policy Perry falsely claimed was being enforced by himself, Geary, and his accomplices Flaherty, Deamicis and Young, several members were permitted to vote on multiple contracts. (Ex. 6 at 53-55; Ex. 253-254; Ex. 259) In contrast, in a selective enforcement of the alleged policy, as discussed below, other individuals were not permitted to vote on the GES contract because they had previously voted on the Freeman contract. (Ex. 260-271) For example, according to the sign-in sheets for the GES and Freeman votes, Perry, in contravention of the alleged policy, permitted ten Local 82 members to vote on both the GES and Freeman collective

⁷⁸ Contrary to Young and Perry's testimony (Ex. 6 at 55-56; Ex. 58 at 25), Geary and Flaherty testified that they consulted the sign-in sheets from previous votes in determining who was eligible to vote. (Ex. 59 at 28-29; Ex. 15 at 53-54) Despite their claims, as discussed below, at least ten members voted during both the GES April 26, 2009 ratification and the Freeman June 22, 2009 ratification. (Exs. 248, 253, 254, 259) The Local did not preserve the sheets from the previous ratification votes. (Ex. 6 at 143)

bargaining agreements on April 26, 2009 and June 22, 2009, respectively. (Exs. 253-254; Ex. 259)

On April 26, 2009, the proposal after the rejection of the Freeman contract, the GES contract was the first contract to be ratified by the members without the controversial "2003 language". (Ex. 248; Ex. 32) At the June 22, 2009 Freeman vote, the contract passed without the "2003 language" after the members had twice rejected the contract proposals in March and April. (Ex. 248; Ex. 32)

It appears that at least half of the members permitted to vote on multiple contracts had clear ties to Local insiders, a group whose eligibility should have been most well known to the enforcers. The members permitted to vote on the Freeman June 22, 2009 contract after they had voted on the GES April 26, 2009 contract included Kevin Berry, Dennis Bird, Michael Ducoing, David Greene, Kenneth Killeen, Steve Masse, Beau Piscopo, Justin Piscopo, Payson Bartlett and James Ward.⁷⁹ (Ex. 253-254; Ex. 259) David Greene, who joined the Local in 2006, was Burhoe's close friend. (Ex. 272; Ex. 57 at 14) Michael Ducoing ("Ducoing") was arrested with Deamicis in the 1980s for

⁷⁹ Because the Local did not keep records of who had voted when the membership did not approve the collective bargaining agreements (Ex. 6 at 143), it is not clear if Perry and his designees permitted members to vote more than once on the March 31, 2009 and April 17, 2009 Freeman contracts and the April 26, 2009 GES contract.

robbery. (Ex. 60 at 8) Kevin Berry was arrested along with Deamicis in the 1990s for credit card fraud and assault and battery. (Ex. 60 at 11-12) Dennis Bird was convicted of a 1996 armored car robbery along with Burhoe's childhood friend, John Fidler. (Ex. 273) Beau Piscopo was a friend of Burhoe and Flaherty. (Ex. 79 at 29; Ex. 59 at 35) In addition, of the ten members Perry permitted to vote on the Freeman contract after they had voted on the GES contract, eight joined the Local after 2003.⁸⁰ (Exs. 253-254, 259, 274) Only Berry and B. Piscopo were members prior to 2003. (Exs. 259 and 274)

c. Perry and His Designees Permitted Favored Spares Who Worked Primarily for Other Companies, Including Moving Companies, to Vote on the GES Contract

President Geary testified that he and Secretary-Treasurer Perry ensured that the members who voted on the trade show collective bargaining agreements worked primarily in the trade show industry. (Ex. 15 at 51-52) Geary testified,

...If they work mostly for the movers, well, no, they can't vote for the shows. If they work mostly for the shows, well, they can't vote for the movers.

⁸⁰ Although the "2003 language" did not reference a member's initiation date, members who joined the Local after 2003 were generally less likely to support the 2003 language since it gave priority for work to those with industry experience prior to April 1, 2003.

(Ex. 15 at 71) Contrary to Geary's sworn testimony, the records established that several members who worked primarily in the moving industry voted on the trade show collective bargaining agreements in 2009.⁸¹ For example, at least five of the spares (i.e., members who were not on any company's seniority list) who voted on the GES contract, the first contract that passed without the "2003 language", worked primarily in the moving industry.⁸² (Ex. 254; Exs. 275-276) These individuals included Vincent Federico, who worked over 74% of his hours in 2008 for moving company Spry & Co.. (Ex. 254; Exs. 275-276)

Moreover, contrary to Perry's alleged policy, in 2008, the year immediately preceding the contract ratifications, fifty-one of the fifty-nine spares who voted on the GES contract, which vote occurred after two rejections of the proposed Freeman contract and was the first contract to pass which omitted the "2003 language", worked most of

⁸¹ According to the sign-in sheet the Local provided, eighty members signed in to vote on the GES April 25, 2009 contract. (Ex. 254) As discussed above, one member who signed in was not permitted to vote. (Ex. 116; Ex. 271) Of the remaining seventy-nine members, 19 were on the seniority list at GES and 59 were spares who did not belong to any company's seniority list. (Exs. 54-55; Ex. 254) One member's name was illegible. (Ex. 254) Accordingly, that member was not counted as a spare or seniority list member in this report.

⁸² These five individuals included Richard Gregory, who worked most of his hours in 2008 for Local 82 mover Metropolitan Moving Company; and Vincent Federico, Fred Parziale, Rene Balaz and Kevin Sheehan, who worked most of their hours in 2008 for Local 82 moving company Spry & Co. (Exs. 275-276)

their hours for a company other than GES.⁸³ (Exs. 254, 275-276) Only one of the fifty-nine spares who voted on the GES contract had worked for GES at all in 2009 as of the contract ratification. (Exs. 254, 275-276) In fact, ten had not worked for GES in 2008.⁸⁴ (Exs. 254, 275-276)

Sixteen of the spares who voted on the GES collective bargaining agreement worked primarily for Champion and another eighteen worked primarily for Freeman, both of which had separate ratification votes. (Exs. 253, 254, 256,

⁸³ Fifty-one spares worked most of their hours for a company other than GES in 2008. For example, eighteen members, including Robert Fenton, Joseph Cooper, Beau Piscopo, Elaine Dignan, Tom Nee, Charles Bibby, Billy Steele, Steve Conine, Ronald Doe, John Allen, Bob Shaughnessy, Martin Shiner, Dennis Bird, Kevin Berry, David Greene, Thomas Burke, Richard Geary, and John Lowe, worked the most for Freeman Decorating Company. (Exs. 254, 275-276) Sixteen members, including Brian Altimas, Dennis Jarred, Daniel Callahan, Jerry Spagnuolo, Jackie Vince, Shawn Myatt, Howard Castiglione, Steve Masse, Richard Hardaway, Joel Dupre, John Scanlan, Darrel Hicks, Ryan Murray, Justin Piscopo, Michael Doe, and Marc Doe worked the most for Champion Exposition Services. (Exs. 254, 275-276) Four members, Billy Pires, Andrew Burke, Robert Perry, and Payson Bartlett, worked the most for Willwork; two members, Mary Kate Flaherty and Justin Holmes worked the most for Nth Degree; two members, James Santos and James Ward worked the most for Boston Show Services; and one member, Michael O'Neill, worked the most for Renaissance. (Exs. 254, 275-276) In addition, as discussed above, at least five members worked the most for moving companies. These five members included Richard Gregory, who worked the most for Metropolitan Moving Company, and Rene Balaz, Vincent Federico, Fred Parziale, and Kevin Sheehan, who worked most of their hours for Spry & Co.. (Exs. 254, 275-276) In addition, three members, Martin Clougherty, Ronald Smith, and Kenneth Killeen, worked the most for Casey and Hayes Moving Company. (Exs. 254, 275-276)

The eight spares who worked most of their hours in 2008 for GES were Kevin Perry (who was on the GES seniority list in 2010 after the vote), Jessica Maio, Monty Tewksbury, Michael Ducoing, Richard Riggs, Jack Coppinger, Susan Rawlinson, and John Brassil. (Exs. 254, 275-276)

⁸⁴ The ten spares who did not work for GES at all in 2008 were Martin Clougherty, John Scanlan, John Allen, Justin Holmes, Michael O'Neill, Vincent Federico, Kevin Berry, Richard Gregory, Billy Pires, and Andrew Burke. (Exs. 254, 275-276)

275-276) For example, Local 82 member Brian Altimas, whom Perry permitted to vote on the GES contract, worked only 11 hours for GES in 2008, compared to 39 hours for Freeman and 625 hours for Champion. (Exs. 254; 275-276; 256) In 2008, Altimas worked less than 1% of his total hours for GES. (Exs. 254, 275-276, 256) Yet despite Perry's and Geary's alleged policy and the claim of its enforcers that they knew who was eligible, Altimas was allowed to vote on the GES contract. (Exs. 254, 275-276)

Despite having access to the Local 82 Health and Welfare Fund and Savings and Investment Fund records, which would have shown the number of hours each Local 82 member worked for each trade show company, Perry and Geary avoided referring to those or any other records in deciding who was eligible to vote on each contract.⁸⁵ (Ex. 15 at 72-73) Given

⁸⁵ During his sworn IRB testimony, Geary testified as follows:

- Q. Who made sure that the members who voted on trade show contracts worked more of their hours for the trade show companies than in the moving industry?
- A. John Perry and I. And if there is a dispute there, we can - we go - we can go back on the health and welfare payments, and it determines where you worked most.
- Q. Is that something that you or John Perry used in determining which members were eligible to vote?
- A. No, we just spoke to the individual members and said: Did you vote here or did you vote here? Or do you work more here or here. And we have a pretty good feel for that. And if they disputed it, well, then let's go to the office and see where the payments came from for the Health and Welfare Fund.
- Q. Were there any instances where you went back to the office and checked the Health and Welfare Fund payments?

how they manipulated the votes, consulting an objective criteria, such as the records, would have defeated their purpose.

d. Selective Enforcement of Perry's and Geary's Voting Policy

Perry hired a Boston City Police Officer, who appeared in his police uniform as a security guard during the April 26, 2009 GES ratification vote, which was the first to pass without the controversial "2003 language." (Ex. 6 at 53-54; Ex. 58 at 27; Ex. 59 at 32-33; Ex. 145 at 29; Ex. 60 at 55-56, 59; Ex. 195) It appears that during this ratification, which was the only ratification during which Perry hired the officer, Local insiders, including Deamicis, Burhoe, and Flaherty, assisted Perry in preventing members from entering the hall to vote. (Ex. 79 at 93-94; Ex. 58 at 21-31; Ex. 59 at 27-33; Ex. 60 at 35-51) Sergeant at Arms Young testified that during the April 26, 2009 GES ratification, he patrolled inside the Local. (Ex. 58 at 27-28) At least fifteen Local 82 members were denied entry at the gate to the Local by Perry, Deamicis, Flaherty, or Burhoe.⁸⁶ (Exs. 260-270, 277-287, 289)

A. No, I wasn't asked. I asked: Did you vote here? Yeah. Then you can't vote here. That's what it is.
(Ex. 15 at 72-73)

⁸⁶ Burhoe, who did not vote on the GES contract, claimed that he waited by the gate at the Local because he was interested in seeing whether the contract would be ratified. (Ex. 79 at 93-94)

On June 25, 2010, the Chief Investigator's Office sent questions to twenty-nine Local 82 members who were alleged to have signed a document stating that they had been denied entry to the Local 82 union hall during the GES ratification vote on April 26, 2009. (Exs. 260-270; Exs. 277-288) Twenty-three Local 82 members responded to the mailing, with twenty members confirming under oath that they had been denied entry to the Local during the GES contract ratification.⁸⁷ (Ex. 289; Exs. 260-271, 277-288)

Of the twenty members who stated that they were not permitted to vote, fifteen stated that Perry himself told them they were ineligible to vote. (Exs. 260-264, 268-270, 277, 278, 280-283 and 285; Ex. 154 at 37-38)⁸⁸

⁸⁷ The twenty members who returned the mailings stating that they had been denied entry to the Local during the April 26, 2009 GES ratification vote were Joseph Previti, David Corbitt, James McNiff, Dana Ramos, Darren Durfee, John Finn, Steven Harris, William Benner, Steve O'Shea, Joseph Bowman, Kevin Barry, Paul Shoulla, Edward O'Connor, William McDonald, Greg Mulvey, Peter Metcalf, Michael Coakley, Robert Wellman, Kevin McDonough and John Scaduto. (Exs. 260-271, 277-278, 280-285) As noted below, McNiff was initially allowed into the hall, but was asked to leave and was not permitted to vote. (Exs. 116, 271; Ex. 43 at 24-26) The three members who returned surveys stating they had not been denied entry to the Local were John Flaherty, Kevin McDonnell, and Michael Durfee. (Exs. 279, 286-287) Local 82 members Paul McManus, Paul Huber, John Calos, Shaun McManus, James Flaherty and Johnathan Fitzgerald did not return the mailings sent to their home addresses listed in IBT records. (Ex. 288)

⁸⁸ These members were William Benner, Stephen Harris, Joseph Bowman, Stephen O'Shea, Kevin Barry, Edward O'Connor, William McDonald, Greg Mulvey, Peter Metcalf, Kevin McDonough, Joseph Previti, David Corbitt, Paul Shoulla, Robert Wellman and John Scaduto. (Exs. 260-264, 268-270, 277, 278, 280-283 and 285; Ex. 154 at 37-38)

Of the twenty members who were denied entry to the Local to vote, at least sixteen were members prior to 2003. (Ex. 289-290) At least six of the members who were denied entry to the GES ratification had filed grievances with the Local concerning violations of the "2003 language" in the year preceding the contract ratifications.⁸⁹ (Exs. 291 and 355; Ex. 147 at 16-17, 25-26; Ex. 43 at 7-11; Ex. 152 at 13-14, 36; Ex. 145 at 8-9; Ex. 139 at 10-13)

Eight of the twenty members were on a seniority list for a company other than GES.⁹⁰ (Exs. 290, 289, 20, 44, 46) The remaining twelve members who returned sworn statements that they had been denied entry to the hall to vote were spares.⁹¹ Ten of the spares denied entry to the hall had been members of the Local who worked in the trade show

⁸⁹ These six members were Kevin Barry, Paul Shoulla, Robert Wellman, David Corbitt, Joseph Previti, and William Benner. (Exs. 291 and 355; Ex. 147 at 16-17, 25-26; Ex. 43 at 7-11; Ex. 152 at 13-14, 36; Ex. 145 at 8-9; Ex. 139 at 10-13)

⁹⁰ These members included Kevin Barry and Paul Shoulla, who were on Nth Degree's seniority list, Kevin McDonough, Edward O'Connor, William McDonald, and Greg Mulvey, who were on Freeman's seniority list, Peter Metcalf, who was on Champion's seniority list, and Michael Coakley, who was on Brede's seniority list. (Exs. 289, 20, 44, 46; Ex. 284) As of June 2010, although its collective bargaining agreement expired in April 2009, Nth Degree has not had a collective bargaining agreement ratification. (Ex. 6 at 59)

⁹¹ These twelve members were Robert Wellman, John Scaduto, Dana Ramos, Darren Durfee, John Finn, Stephen Harris, William Benner, Stephen O'Shea, Joseph Bowman, James McNiff, Joseph Previti, and David Corbitt. (Exs. 260, 261, 265, 266, 267, 268, 264, 270, 271, 262, 263)

industry prior to 2003. (Ex. 289)⁹² Accordingly, the "2003" language that Perry and Geary had negotiated away, benefited them.⁹³ (Ex. 15 at 48-49) One of the two spares who joined the Local after 2003, David Corbitt ("Corbitt"), was a vocal supporter of the "2003 language" who claimed that he had experience in the trade show industry prior to 2003.⁹⁴ (Ex. 139 at 6, 9-11)

⁹² These individuals were Robert Wellman, John Scaduto, Dana Ramos, John Finn, Stephen Harris, William Benner, Stephen O'Shea, Joseph Bowman, James McNiff and Joseph Previti. (Exs. 289 and 364)

⁹³ The 2003 language did not require an individual to be a member of the Local prior to 2003 in order to receive hiring preference. The language required that the member have "experience relevant to the trade show industry" prior to April 1, 2003.

⁹⁴ In a letter dated January 10, 2010, Corbitt wrote to Perry, claiming that he had experienced a decline in his work due to his filing grievances concerning the "2003 language" and claiming that Vice President Thornton told him that the decline in his work was due to Corbitt "getting the IRB involved with our Local." (Ex. 362) Regarding Thornton's statement and Corbitt's decline in work, in his letter Corbitt stated, "If this is not a clear sign of intimidation or retaliation from giving a deposition to the IRB, then I am confused." (Ex. 362)

In response, in a letter dated January 15, 2010, Perry requested further information from Corbitt concerning his alleged decline in work. (Ex. 363) In addition, Perry stated,

A further response to help clear up your stated "confusion" about what would actually constitute intimidation or retaliation would, for example, be, someone threatening to put someone in a trunk of a car, intimating severe bodily harm; being followed and battered and punched for engaging in protected activity; having your ribs broken and being hospitalized for freedom of speech- those example, [sic], among others, could and most likely would constitute intimidation. (Ex. 363)

Perry's response was in essence an admission that opponents could expect to lose work because Perry considered only severe beatings and the like to constitute retaliation.

Of the twelve spares denied access who had returned responses to the questions, five responded in their sworn affidavits that they were denied entry because they had already voted on the Freeman contract.⁹⁵ (Exs. 261, 267, 268, 270, 282) The Local did not maintain records of contract ratifications at which the members did not approve the contract. (Exs. 155 & 158) In contrast to these spares who were not allowed to vote on the GES contract because they had already voted on the Freeman contract, as discussed above, Perry and his co-schemers allowed at least ten other members to vote on both the April 26, 2009 GES and the June 22, 2009 Freeman contracts. (Exs. 253, 254 and 259) This is further proof Perry and his designees selectively enforced the alleged policy regarding voting eligibility.

One member, James McNiff, responded that Perry's brother, Robert Perry, told him he could not vote because he did not work the majority of his hours for GES.⁹⁶ (Ex. 271) Three members, Joseph Previti ("Previti"), David Corbitt, and Robert Wellman ("Wellman") stated that they

⁹⁵ These members were Dana Ramos, Robert Wellman, John Finn, Stephen Harris and Joseph Bowman. (Exs. 261, 267, 268, 270, 282)

⁹⁶ According to the sign-in sheets Local 82 provided, McNiff signed in to vote at the GES and Freeman ratifications. (Exs. 254 and 253) According to McNiff's sworn statement and Local 82 member Robert Wellman's testimony during his IRB sworn examination, McNiff was not permitted to vote at any ratification. (Exs. 116, 271; Ex. 43 at 24-26)

were told they could not vote because they had voted on the Freeman contract already and because they worked the majority of their hours at another company. (Exs. 262, 263, 261)

In contrast, fifty-one of the fifty-nine spares whom Perry and his designees permitted to vote on the GES contract worked most of their hours for a company other than GES in 2008, the year preceding the ratifications. (Exs. 253-254, 256, 275-276) Moreover, only one of the ten members who was permitted to vote on both the GES and Freeman contracts worked mostly for GES in 2008.⁹⁷ (Exs. 275-276) It appears that Perry selectively enforced the alleged policies that members could vote on only one contract and spares were required to vote on the contract for the company at which they worked the majority of their hours, to ensure that the contracts passed without the controversial "2003 language." (Ex. 139 at 16-26; Ex. 43 at 20-22; Exs. 253-254, 275-276)

For example, during their sworn IRB examinations, Local 82 members Wellman and Corbitt each stated they had

⁹⁷ Michael Ducoing worked the most for GES in 2008. (Exs. 275-276) Four, Beau Piscopo, Dennis Bird, Kevin Berry and David Greene, worked the most for Freeman. (Exs. 275-276) The other individuals were Justin Piscopo and Steve Masse who worked the most for Champion; Payson Bartlett who worked the most for Willwork; Kenneth Killeen who worked the most for Casey and Hayes and James Ward who worked the most for Boston Show. (Exs. 253-254, 259, 275-276)

filed grievances with the Local in 2008, the year preceding the ratifications, alleging that employers were not following the requirements of the "2003 language." (Ex. 43 at 7-8; Ex. 139 at 10-11)⁹⁸ In addition, Wellman testified that he questioned Perry about the "2003 language" during the April 18, 2009 Freeman vote, when the membership voted down the contract. (Ex. 43 at 21) Wellman testified that during the April 18, 2009 Freeman vote, when Perry told Wellman he could only vote on one contract, Wellman responded that he wanted to vote on GES. (Ex. 43 at 20-23) In the year preceding the contract ratifications, Wellman worked 50% of his hours at Champion, 31% of his hours at Freeman, and 3% of his hours at GES. (Exs. 88 and 293) According to Wellman, Perry told him that he could not vote on GES and that he had to vote on the April 18, 2009 Freeman contract or he would lose his right to vote entirely. (Ex. 43 at 22-23) Accordingly, Wellman voted on the Freeman contract, which the members did not approve. (Ex. 43 at 23)

In response to the Chief Investigator's mailing, which referenced the April 26, 2009 GES ratification, Local 82 member Wellman wrote,

⁹⁸ In addition, Local 82 member Previti testified that he filed a grievance regarding the "2003 language" in March 2009. (Ex. 147 at 16-17, 25-26)

John Perry told me at the Front Gate, with a Boston police officer standing beside him. That I was not allowed to enter onto The Union Hall property. [sic] John told the officer I was a troublemaker and not let in. [sic] And if I did go onto the property, I would be arrested for trespassing on my Union Hall Property and the officer said he would do it because John told him to do it.

(Ex. 261)⁹⁹

In addition, when asked to detail who told him that he could not enter the hall for the GES vote and why, Local 82 member Previti wrote,

1st- Joe Burhoe- Because you scumbags already voted on a contract.

2nd Jim Demicas [sic]- Because John says so

3rd John Perry- Cause I said so

4th Officer (Santiago)? Because they said so and you will be arrested if u [sic]cross gateway.

(Ex. 262)¹⁰⁰ According to Previti, Secretary-Treasurer

Perry then stated that Previti could not vote on the GES contract because he made more money at another company.

(Ex. 262) Indeed, Previti, like eighteen of the spares Perry did permit to vote on the GES contract, worked most of his hours in 2008 with Freeman. (Exs. 254, 275-276, 385)

Previti and Wellman were both vocal supporters of the "2003 language" who had filed grievances concerning alleged

⁹⁹ The Local hired an off duty police officer to enforce Perry's arbitrary decisions on voting eligibility. (Ex. 59 at 33; Ex. 79 at 93; Ex. 145 at 29; Ex. 146 at 31, 34; Ex. 195)

¹⁰⁰ Deamicis, although he was suspended from membership for non-payment of his fine, attended every contract ratification vote in 2009. (Ex. 60 at 46-57, 61-63)

violations of that contract provision. (Ex. 43 at 8-11; Ex. 291) Indeed, Perry's statement that Previti could not vote because he "said so" captured the true, arbitrary policy as reflected in the records of voting.¹⁰¹

5. Expired Collective Bargaining Agreements

During his June 8, 2010 sworn IRB testimony, Perry admitted that only Freeman, GES, Champion, and Brede had ratification votes for the collective bargaining agreements that expired in April 2009. (Ex. 6 at 58) Perry claimed that he still intended to have ten to fifteen additional collective bargaining agreement ratification votes for companies including Willwork, Nth Degree, Boston Show Services, Corporate Communications, Renaissance, and

¹⁰¹ Perry's statement was consistent with allegations that in October 2008, Perry assaulted Local 82 member James Lee by pushing his body into Lee. (Ex. 152 at 18-19) Following the incident, Lee filed a criminal complaint and a complaint with the MCCA. (Exs. 292 and 341) The criminal complaint was dismissed. (Ex. 292) In a letter dated December 29, 2008, Perry filed a charge against Lee before the Local Executive Board. (Ex. 371) No hearing on the charge was ever held. (Ex. 152 at 22-25) The December 29, 2008 charge read,

The charges arise from an incident at the BCEC on October 28, 2008. By the actions you took during and after this incident you have violated several provisions of the International Constitution and our By-Laws. You have "divulge[d] to nonmembers the private business of the Union." You have "knowingly harm[ed] a fellow member." You have interfered with the Union's performance of its legal and contractual obligations. You have brought reproach upon the Teamsters. You have violated the Preamble and the Article XIX §7 of the International Brotherhood of Teamsters Constitution.

(Ex. 371) According to the MCCA's report of the October 28, 2008 incident, Lee provided statements from Local 82 members John Scaduto and Robert Wellman, which, according to the report, stated that Perry and Geary had approached them on October 28, 2008, in a threatening manner about grievances they had filed. (Ex. 372)

Momentum, at which collective bargaining agreements had expired over a year before in April 2009. (Ex. 6 at 59-60) Perry claimed that he was still attempting to determine which companies were renewing their agreements. (Ex. 6 at 59-60) As of June 8, 2010, over one year after the trade show agreements had expired, none of these additional ratification votes had been scheduled in this small Local for which Perry worked full time. (Ex. 6 at 58-59; Ex. 5)

I. Perry's and Burhoe's Collusion With a Non-Union Employer in the Moving Industry

1. Overview

In September 2009, Perry supplied Atlantic Liquidators, Inc., a non-union employer, through Burhoe with Local 82 members to work at rates below those that Local 82's contracts required. Local 82 employer Casey and Hayes, Inc. ("Casey") had been hired to move two companies, Eduventure and Gillette, out of the Prudential Building in Boston, MA to new locations in September 2009. (Ex. 170) Atlantic, a liquidator that did not have a contract with Local 82, purchased the furniture that Eduventure and Gillette were leaving behind at the Prudential Building. (Ex. 79 at 74-75; Ex. 30 at 12-18) Atlantic needed workers to dismantle the partitions and remove them and the furniture. (Ex. 6 at 126; Ex. 30 at 22; Ex. 170) As

detailed below, Perry permitted Atlantic, a non-union employer, to directly hire Local 82 members through Burhoe to dismantle the cubicles and remove them and other furniture from the Prudential Building at less than what a union employer would have paid in wages and benefits.

Atlantic, which Perry never attempted to organize, had no contract with Local 82. (Ex. 248) Perry did not require Atlantic to pay the Local 82 members it hired with his consent, the wage and benefits package that Local 82's contracts required. (Ex. 6 at 128-131; Ex. 294) Nor, as in other instances prior to 2007 (Exs. 169, 294, 297-298), did Atlantic subcontract with a Teamster employer.

Local 82 had a Strike Unit, which was allegedly formed to picket employers in the moving industry, like Atlantic, that did not have Local 82 collective bargaining agreements and did not pay the wage and benefits package the Local's collective bargaining agreements required. (Ex. 60 at 23-24; Ex. 6 at 143-145) Indeed, in at least 2007, Deamicis, who created the Strike Unit, had reported to the Local 82 Executive Board about his activities. (Exs. 365-366) Although several Local 82 members sought to picket the Atlantic job, Perry directed them not to do so. (Ex. 30 at 23-24) Instead, Deamicis, the head of the Local 82 Strike

Unit, was paid \$500 for his alleged one day of work on the Atlantic job. (Ex. 60 at 78-81; Exs. 294 and 299)

Perry supplied Atlantic's owner Alan Ginesky ("Ginesky") with Local members that Burhoe selected to work for less than they would have received from union employers. (Ex. 6 at 126-137, 139-140) Perry permitted Burhoe to make the referrals for the job, which as usual when Perry allowed Burhoe to control work assignments, benefited Burhoe's family and friends. (Ex. 6 at 139-140) According to payroll records Atlantic produced and records from the Benefit Funds, Atlantic did not make benefit contributions on behalf of any of the Local 82 members who worked for Atlantic between September and November 2009. (Ex. 88; Exs. 294-296) Under contracts for similar work, Local employers would have paid benefit contributions of almost \$15 per hour.¹⁰² (Ex. 40 at 27-31; Ex. 41 at 29-30, 32-33, 35)

2. The Local 82 Strike Unit

Allegedly to help Local 82 members obtain work in the moving industry and to receive the rates Local 82's moving contracts required, with Perry's and the Executive Board's

¹⁰² The moving industry collective bargaining agreements required that employers contribute \$8.44/hour to the Local 82 Health and Welfare Fund, \$5.76/hour to the New England Teamsters and Trucking Industry Pension Fund, and \$0.60/hour to the Local 82 Savings and Investment Fund. (Ex. 40 at 27-31; Ex. 41 at 29-30, 32-33, 35)

approval, several Local 82 members created a Strike Unit in approximately 2007. (Ex. 60 at 23-24; Ex. 6 at 143-144) According to Deamicis, he, Flaherty, and Young organized the Strike Unit. (Ex. 60 at 23-24) Indeed, Deamicis reported to Local 82's Executive Board about his activities. (Exs. 365-366; Ex. 60 at 84-85) Burhoe, who was released from prison in November 2006 and rejoined the Local in March 2007, was an active member of the Strike Unit, who regularly participated in its activities, which included the picketing of non-union moving companies. (Ex. 79 at 19) According to Deamicis, the Strike Unit attempted to persuade non-union moving companies to sub-contract to companies that had collective bargaining agreements with Local 82 and to use Local 82 labor. (Ex. 60 at 23-24, 105-106, 136-137) Thornton explained members would call Burhoe, Deamicis, Flaherty or Young who would confront the employer and organize pickets. (Ex. 23 at 28-29, 39-40) Thus, when the Strike Unit was unsuccessful in convincing non-union moving companies to use union labor, they organized informational pickets. (Ex. 60 at 23-24, 106-107) When asked to describe the Strike Unit, Perry stated,

It's volunteers. Any members that want to get involved, and if something - if we see somebody out there trying to do work that we do that aren't paying the prevailing wage, we'll put up an informational

picket line. So it's a volunteer thing trying to protect your jurisdiction.

(Ex. 6 at 143-144)

The Strike Unit investigated non-union moving jobs at several locations in downtown Boston, including the Prudential Building, where the Atlantic job took place.

(Ex. 60 at 105-106; Ex. 6 at 60-61) Trustee Murphy, a steward at Spry Moving, and several other Local 82 members wanted to picket the Atlantic job. (Ex. 30 at 24) When Murphy asked Perry if the Local could picket Atlantic, a non-union employer at Prudential, a union location,¹⁰³

Perry, the Local's principal officer, told him,

. . . that it really wasn't—it wasn't our jurisdiction. We couldn't just throw up a picket line. I want to picket the job. He said we couldn't picket it if Alan [Ginesky] had chosen to use his own trucks and his own men. That once they bought the furniture, they assumed ownership of the furniture, and we couldn't picket them and we couldn't picket another union. The only way we could have picketed, if he brought a non-union moving company in to do the move.

(Ex. 30 at 24; Ex. 6 at 60-61, 126-130)

It appears that on at least five prior occasions before the founding of the Strike Unit in 2007, Atlantic had sub-contracted through a Local 82 employer. (Exs. 169, 294 and 297; Ex. 29 at 7, 9-10) For example, pursuant to

¹⁰³ Perry testified that Prudential was a building the management of which insisted operations within it be done by union workers. (EX. 6 at 60-61)

records Atlantic produced in response to a subpoena, Atlantic subcontracted through Walsh Movers, Inc. in 1999, 2001, 2002 and 2004, while Walsh was under contract with Local 82. (Exs. 294, 297; Ex. 29 at 7, 9-10) The records Atlantic produced in response to a subpoena reflected a \$14,000 check voucher dated October 16, 2004 made out to Walsh Movers. (Ex. 298) According to Local 82 Trustee Logan, in the past, Atlantic had subcontracted through Local 82 employer Walsh, where Logan was on the seniority list, and Casey and Hayes. (Ex. 29 at 10, 23-24)

In 2009, the Strike Unit never picketed Atlantic. (Ex. 60 at 83) When asked during his sworn IRB examination why the Strike Unit was not involved in the Atlantic job, Deamicis responded,

It didn't - I don't know. It just never happened. It was always Local 82 did the work. We didn't have to fight for it.

(Ex. 60 at 83) Atlantic paid Deamicis, the head of the Strike Unit \$500 by check dated November 13, 2009 for his alleged one day of work. (Ex. 298) Deamicis claimed he worked one eight hour day at \$50 per hour, which would have been twice the hourly rate other Local 82 members were paid. (Ex. 60 at 78-80) This would have been \$400, not the \$500 he received. (Ex. 298; Ex. 60 at 78-80) When asked why

he was paid a higher rate than other members, Deamicis responded, "Because I'm worth that much." (Ex. 60 at 80)

3. Perry Provided Labor at Below Contract Rates to Atlantic a Non-Union Employer

Ginesky, Atlantic's owner, directly contacted Perry before the Atlantic job began in order to obtain Local 82 members for his non-union company to operate at a union building. (Ex. 6 at 60-61, 127-128; Exs. 300-301) Instead of sub-contracting through a Local employer, as Atlantic had in the past (Exs. 169, 294, 297 and 298), this time with Perry's assistance, Atlantic directly hired Local 82 members through Burhoe who acted as Perry's delegate. (Ex. 6 at 127-128, 139-140) In assisting Atlantic, it appears that Perry undercut Local 82 employers, including ABC Moving Co. ("ABC") and Casey and Hayes, Inc. which appear to have bid on the Atlantic job. (Ex. 170; Ex. 112 at 6, 28)

Perry testified that Ginesky told him he wanted to hire Teamsters to dismantle partitions. (Ex. 6 at 126-127) According to Perry, when Ginesky asked Perry if Teamsters could dismantle partitions, Perry responded, that if the Teamsters got the assignment, they could. (Ex. 6 at 126) Perry made no attempt to organize Atlantic. (Ex. 248) Nor did he try to negotiate a wage package for the Local 82

members he represented. (Ex. 6 at 130) Nor did he refer Ginesky to a union employer to subcontract the work as Perry had done with Union Payroll referrals in the trade show industry. (Ex. 6 at 89)

Perry's cell phone records reflected several phone calls between Perry and Ginesky before the job's scheduled September 19, 2009 start date. (Exs. 128, 300) For example, Ginesky called Perry's cell phone once on June 29, 2009 and once on August 27, 2009.¹⁰⁴ (Exs. 128, 300) There was additional contact between September 16, 2009 and September 21, 2009, shortly before and at the commencement of the Atlantic job. (Exs. 128, 300) During that period, there were seven phone calls between Perry and Ginesky. (Exs. 128, 300) On September 16, 2009, there were two phone calls between Perry and Ginesky.¹⁰⁵ (Exs. 128, 300) The next day, September 17, 2009, Ginesky called Perry at 5:12 p.m. (Exs. 128, 300) Perry called Burhoe at 6:05 PM and again at 6:07 p.m. (Exs. 128, 244) Perry's second call to Burhoe lasted approximately two minutes. (Exs. 128, 244)

¹⁰⁴ On June 29, 2009, Perry received a call from Alan Ginesky, at 1:10 p.m. (Exs. 128, 300) This phone call lasted approximately one minute. (Exs. 128, 300) Approximately two months later, on August 27, 2009, Ginesky called Perry at 6:22 p.m. This phone call lasted 16 seconds. (Exs. 128, 300)

¹⁰⁵ Perry received a phone call from Ginesky at 6:15 p.m. This phone call lasted 29 seconds. Perry called Ginesky five minutes later at 6:20 p.m. This second phone call lasted one minute. (Exs. 128, 300)

At 6:09 p.m., immediately after Perry's conversation with Burhoe, Perry called Ginesky. (Exs. 128, 300) On the morning of Saturday, September 19, 2009, when the Atlantic job was allegedly scheduled to begin, there were two more phone calls between Ginesky and Perry.¹⁰⁶ (Exs. 128, 300)

Peter Boyce ("Boyce"), Vice President of Local 82 employer Casey, stated in a sworn affidavit that he had been in discussions with Atlantic to remove the furniture Atlantic had purchased from Eduventure.¹⁰⁷ (Ex. 170) Boyce recounted that when he did not hear from Ginesky by the scheduled start date of September 19, 2009, Boyce called Perry. (Ex. 170) According to Boyce, Perry confirmed that he was sending Local 82 members to work for Ginesky. (Ex. 170) Perry told Boyce that he supplied Atlantic with Local 82 workers because he wanted to prevent the Carpenters Union from getting the job. (Ex. 170)

On September 20, 2009, Local 82 held a General Membership meeting, at which the Atlantic job was discussed. (Ex. 302) The September 20, 2009 General Membership Meeting minutes indicated,

¹⁰⁶ Perry called Ginesky at 9:43 am. This call lasted twenty-nine seconds. At 9:45 am, Ginesky called Perry. This second phone call lasted almost four minutes. (Exs. 128, 300)

¹⁰⁷ On December 1, 2009, Peter Boyce provided the IRB with a sworn affidavit. (Ex. 170)

Member Dave Lefave [sic] asked if Liquidator's move is being done through the hall and how members can get this work. John Perry stated Atlantic Liquidators' [sic] has agreed to hire our members for smaller jobs and union movers for the bigger ones and to call Atlantic for work.

Member Joe Burhoe spoke about Atlantic Liquidator bought the merchandise they have a right to choose who works it. Member Red Boltonhouse spoke stating he admires what our members do but are they paying into benefits. Member Jim Deamicis stated union movers don't work with non-union movers. Member Dave Lefave [sic] stated a lot of issues going on. Red Boltonhouse also stated carpenters doing a lot of our work can we get people who are qualified. John Perry replied we are.

(Ex. 302)

Lefebvre, a former Local 82 Executive Board member who was on ABC's seniority list, testified that he raised the issue of the Atlantic job at the September 20, 2009 General Membership meeting because ABC had bid on the Atlantic job.

(Ex. 112 at 6, 28-29) Lefebvre testified,

I asked how my guys could get the work, because we have a seniority list, and we have a lot of spares who don't work a lot, and they are being hurt by it, and Mr. Burhoe told me he doesn't do the hiring. You have to go through Alan [Ginesky], who is the owner of the company at Atlantic Liquidators.

(Ex. 112 at 28-29)

On the afternoon of Monday, September 21, 2009, the day after the General Membership meeting, while the Atlantic job was ongoing, Boyce recounted that he went to the space Eduventure had occupied within the Prudential

Building. (Ex. 170 at 2)¹⁰⁸ Boyce discovered that most of the furniture Eduventure had left behind had been disassembled or removed. (Ex. 170 at 2) Boyce observed several Local 82 members disassembling the furniture. (Ex. 170 at 2) No Local 82 employer had been contracted to perform the work. On the afternoon that Boyce observed Local 82 members dismantling Atlantic's furniture, Perry called Ginesky at approximately 2:44 p.m. (Exs. 128, 300) This phone call lasted four minutes.¹⁰⁹ (Exs. 128, 300)

4. Perry Delegated Burhoe to Refer Members to Work

Burhoe, who had no official Local position, referred members and others to work on the Atlantic job with Perry's blessing. Burhoe's family and friends appear to have benefited, as in other instances, when Perry vested referral discretion in Burhoe. Burhoe's cell phone records reflected 308 phone calls with Ginesky in the 77 days between September 19, 2009 and November 27, 2009, during the Atlantic job.¹¹⁰ (Ex. 127, 303) Burhoe's first phone

¹⁰⁸ In his affidavit, Boyce referenced "Monday, September 22, 2009". (Ex. 170 at 2) September 22, 2009 was a Tuesday. The date Boyce appears to be referencing is Monday, September 21, 2009.

¹⁰⁹ The earliest check that Atlantic produced in response to a subpoena, was dated September 9, 2009 and made out to Burhoe's friend Ron Doe. (Ex. 294)

¹¹⁰ The Chief Investigator's Office obtained Burhoe's phone records pursuant to a subpoena District Court Judge Loretta A. Preska issued. (Ex. 172)

call with Ginesky during that period appears to have been on September 19, 2009, two days after Perry called Burhoe on September 17, 2009 and immediately, thereafter, called Ginesky.¹¹¹ (Exs. 127, 128, 244 and 301) Prior to Burhoe's September 19, 2009 call with Ginesky, Burhoe's cell phone records for the period December 19, 2007 to September 19, 2009, reflected four phone calls between Ginesky and Burhoe in January 2008, over one year before the Atlantic job started. (Exs. 127, 303)

Several Local 82 members who worked the Atlantic job, including Burhoe's father, Maguire, and David Greene, who described Burhoe as a close friend, testified that Burhoe contacted them to offer them work with Atlantic. (Ex. 83 at 25, 28; Ex. 57 at 15, 29-33) John Hurl and Paul McGrath, who received the second and third highest payments of any Local 82 members for the Atlantic job, also testified that Burhoe called them to offer them work on the job. (Exs. 294, 304; Ex. 132 at 9; Ex. 133 at 8-9) According to payroll records, Atlantic paid Burhoe's father, Maguire \$5,350, and Burhoe's close friend Greene \$3,100. (Exs. 294, 304) It paid Burhoe \$4,600. (Exs. 294, 304) Burhoe's

¹¹¹ Burhoe claimed that he found out about the Atlantic job from Local 82 member John Petrillo. (Ex. 79 at 74) According to payroll records Atlantic produced in response to a subpoena, Petrillo did not work the Atlantic job. (Exs. 169 and 294)

friend John Brassil received the most work of any Local 82 member on the Atlantic job and was paid \$6,250. (Exs. 294, 304) Burhoe testified that he and Brassil were friends who had known each other since childhood. (Ex. 79 at 26)

After agreeing to supply Ginesky with Local 82 labor, Perry did nothing to ensure that work was distributed fairly or to members most in need of work, one of his stated reasons for allowing Burhoe to act as a labor broker for a non-union employer at less than contract rates.¹¹² (Ex. 6 at 140, 134) When asked if Burhoe had any role with regard to the Atlantic job, Perry pretended uncertainty saying he thought Burhoe did.¹¹³ (Ex. 6 at 139) Perry

¹¹² During his sworn IRB examination, Perry testified that he announced the Atlantic job at a General Membership meeting. (Ex. 6 at 126, 133-135) Burhoe claimed that he told members to call Atlantic for work. (Ex. 79 at 79) Burhoe admitted that he did not provide members with a number to call to get in touch with Atlantic or its owner Ginesky. (Ex. 79 at 81) Burhoe claimed that he put out a list and told members at the meeting to sign the list if they were interested in working the Atlantic job. (Ex. 79 at 79) Burhoe claimed no members wanted to work the job. (Ex. 79 at 80)

The minutes of the September 20, 2009 general membership meeting reflected that the Atlantic job was discussed only after member Dave Lefebvre raised the question of how members could work the job. (Ex. 302) According to the minutes, after Lefebvre raised the Atlantic job, Perry told the members "to call Atlantic for work." (Ex. 302) There was no announcement of the job by Perry. (Ex. 302) Despite the detailed reference to Atlantic in the minutes, there was no reference to Burhoe putting out a list for members who wanted to work the Atlantic job to sign. (Ex. 302)

¹¹³ According to Burhoe, he first met Ginesky after Local 82 member John Petrillo called Burhoe and told Burhoe that Ginesky wanted to use Teamster workers. (Ex. 79 at 74) As noted above, Burhoe's contact with Ginesky started after Perry contacted Ginesky immediately after speaking to Burhoe on September 17, 2009, just prior to the commencement of the Atlantic job.

testified that he believed Burhoe knew Ginesky and helped Ginesky obtain labor. When asked why he thought that, Perry responded, "Just the talk and, you know." (Ex. 6 at 139-140) From the sequence of telephone calls among Ginesky, Perry and Burhoe on September 17, 2009, it is clear that Perry discussed the Atlantic job with Burhoe and arranged for Ginesky to secure labor through him. (Exs. 128, 244, 300-301, 303)

Perry claimed to have allowed Ginesky to avoid the terms of the Local's collective bargaining agreements to allow unemployed movers to get the work. (Ex. 6 at 134)¹¹⁴ Perry claimed that after hearing that Burhoe was involved in the selection of members to work the Atlantic job, he did not speak to Burhoe about the Atlantic job at all.¹¹⁵ (Ex. 6 at 139-140) Yet, during the applicable period,

¹¹⁴ At least ten individuals who worked the Atlantic job were never Local 82 members, although Perry claimed that he wanted the work for Local 82 members. (Exs. 222, 225, 294, 304; Ex. 6 at 126-131) These ten individuals included Burhoe's brother John Bowden, Darin Bufalino, Richard Burke, Shamia Christian, John Fidler, Mike Habitch, Quinn Hennessy, Greg Lowe, William McLaughlin, and Greg Sullivan. (Exs. 222 and 225; Ex. 79 at 11-12)

¹¹⁵ When asked how the Local was involved in the Atlantic job, Burhoe responded,

We did the work. We took work away from carpenters. As far as the Local 82, there was no stamp of Local 82 on that. This was just, hey, there's work. If you're hungry and you want it, here it is. It wasn't kept for the good old boys. . .

(Ex. 79 at 86) Burhoe's claim that the Local was uninvolved in the Atlantic job does not match the facts, including Perry's admissions and the discussion at the membership meeting.

Perry's cell phone records reflected 134 phone calls between himself and Burhoe in the 77 days between September 19, 2009 and November 27, 2009. (Exs. 127-129; Ex. 373)

5. Perry Permitted Atlantic to Undercut Local 82 Contracts and Did Not Attempt to Organize Atlantic

Section 4(A)(2) of the Local's Bylaws provided that one of the Local's objects was "to engage in organizing workers to provide the benefit of unionism to all workers and to protect and preserve the benefits obtained for members of this organization." (Ex. 245 at 1) Perry did not attempt to negotiate a contract with Ginesky or have him subcontract the job to a union employer as Ginesky had done in the past. (Ex. 6 at 128) According to Perry, there were no negotiations over wages or other collective bargaining. (Ex. 6 at 128-130) Perry stated that the members as individuals agreed to what Ginesky offered. (Ex. 6 at 129-130)

The Local 82 members who worked for Ginesky testified that their work included dismantling office cubicles, loading the dismantled cubicles onto dollies and moving them out of the Prudential building and loading Ginesky's trucks. (Ex. 133 at 9-12; Ex. 132 at 11-15; Ex. 57 at 31-37; Ex. 79 at 74-75, 105-106) It appears that Local 82 employers, including Casey and ABC, had bid on this work,

which was covered by a Teamster contract. (Ex. 170 at 1; Ex. 112 at 6-7, 28-29) By cutting Ginesky's costs, Perry helped Atlantic do the job for less than a Local employer would have cost. Pursuant to its collective bargaining agreement with Local 82, Casey would have paid the Local 82 contract wage, which started at between \$21.32-\$22.12 per hour for straight time, plus overtime, and almost \$15.00 per hour in benefit fund contributions.¹¹⁶ (Ex. 170 at 3; Ex. 40) Casey would have hired the Local 82 members on its 17 member seniority list. (Exs. 170 at 2; Exs. 40, 50) These members would have been guaranteed certain benefits, such as a guaranteed eight hour day and overtime. (Ex. 40 at 21-22) The members Ginesky hired through Perry and Burhoe did not receive these benefits. (Ex. 79 at 78, 82-83)

Instead of subcontracting through a Local employer, as it had in the past, Atlantic directly contacted Perry to obtain Local 82 workers outside of seniority lists and to work for a cheaper wage package than the Local's contracts required. (Ex. 6 at 126-131; Exs. 128 and 300) In response to a subpoena, Atlantic produced its payroll records, which

¹¹⁶ The collective bargaining agreements required that employers contribute \$8.44 per hour worked to the Health and Welfare Fund, \$5.76 per hour worked to the New England Teamsters and Trucking Industry Pension Fund, and .60 per hour worked to the Savings and Investment Fund. (Ex. 40 at 27, 29 and 31)

consisted of copies of checks issued by "Alan Ginesky D/B/A 525 Beach Nominee Trust." (Exs. 169 and 294) In response to the subpoena, Atlantic stated that it did not issue W-2's and that the Local 82 members were paid as independent contractors. (Exs. 169 and 294) Ginesky wrote that members were paid \$25-30 per hour for hours worked. (Exs. 169, 294) The higher rate Deamicis, the head of the Strike Unit, said he was paid was not disclosed. (Exs. 169, 294)

According to records the Chief Investigator obtained, pursuant to subpoenas, from the Local 82 Health and Welfare Fund, the Local 82 Savings and Investment Fund, and the New England Teamsters and Trucking Industry Pension Fund, Atlantic did not make benefit contributions on behalf of any Local 82 members who worked for Atlantic between September and December 2009. (Ex. 88; Exs. 295-296) A Teamster employer would have paid over \$23,000 to the two Local Funds of which Perry was a Trustee. (Ex. 305; Ex. 294; Ex. 40 at 27, 29, 31) In addition, a Local 82 employer would have paid \$14,838.61 to the New England Teamsters and Trucking Industry Pension Fund. (Ex. 305; Ex. 294; Ex. 40 at 29) Perry assisted Atlantic to complete the job with at least a \$37,000 cost advantage over Teamster employers.

6. Perry's Claims

a. Perry Wanted to Prevent the Carpenters from Getting the Work

Perry claimed during his sworn IRB examination that he was willing to have Local 82 members work a non-union job for Atlantic at below contract rates to prevent the Carpenters from getting the work pursuant to their contract. (Ex. 6 at 126-128) Perry testified as follows,

We have this ongoing dispute with the carpenters union. They steal our work all the time. And so whatever chance we get to get some work, we'll do the same thing. And this partition work was something that the carpenters wanted, and we ended up doing it.

(Ex. 6 at 126-127)

The explanation does not make much sense since Teamster employers and members both agree the work was within the Local's jurisdiction. (Ex. 170; Ex. 112 at 28-29; Ex. 30 at 15, 24) In any event, if that dubious explanation was the case, by causing Local 82 members to work as non-union workers for less compensation than Teamster contracts provided to undercut the Carpenters Union, Perry, who had an International position, undermined the IBT objectives. Under Article I, Section 2 of the IBT Constitution, one of the objects of the IBT is

. . .to provide financial and moral assistance to other labor organizations or other bodies having

purposes and objectives in whole or in part similar or related to those of this organization.¹¹⁷

(Ex. 1)

Perry and Burhoe engaged in a scheme with a non-union employer to undercut Local 82 members and employers with Teamster contracts and as well as another union's members. Indeed, Perry acted as a labor broker who supplied a non-union employer with workers for less than contract wages, which Perry, as the Local's principal officer, had negotiated with the employers. There was no union purpose for what Burhoe and Perry did.

b. Perry Falsely Claimed the Atlantic Job Was Not Within the Local's Jurisdiction

Perry's claim that the dismantling of partitions and their removal to Atlantic's truck was not within the Local's jurisdiction is not consistent with the Local's broad charter from the IBT. (Ex. 2) Moreover, it also does not appear to be consistent with the Local's previous interpretations of its jurisdiction.

¹¹⁷ In addition, Article I, Section 2 of the IBT Constitution provided,

The objects of this International Union are also to secure improved wages, hours, working conditions, and other economic advantages through organization, negotiations and collective bargaining. . .

(Ex. 1)

Section 4(A)(2) and (3) of the Local's Bylaws had provisions similar to the IBT Constitutional provisions referenced above. (Ex. 245)

For example, the Local's May 2008 General Membership meeting minutes indicated that ABC Moving, a company under contract with Local 82, was handling the dismantling of partitions at 52 State Street, another building in downtown Boston. (Ex. 306) In addition, according to Boyce's affidavit, the dismantling of partitions and their removal was work that Casey, a company under contract with Local 82, handled in the past with Local 82 members. (Ex. 170)

In a sworn statement to the IRB dated July 2, 2010, in explaining his failure to organize Atlantic, Perry stated,

It is my belief that the Union could be accused of committing labor law violations through recognition and execution of an agreement prior to there actually existing a workforce and normal operations for work. Pre-hire agreements, except in closely circumscribed areas such as the construction trades, are expressly forbidden under the Act [National Labor Relations Act]. . . If the Union sought to establish a collective bargaining relationship with Atlantic Liquidators or any other liquidators, the Union would be required to petition for an NLRB conducted election. By the time such a petition would be processed, the job, in all likelihood, would be over.

(Ex. 248 at 1-2) Perry's concern expressed in his July 2, 2010 letter to the IRB seems inconsistent with the Local's past practice. (Ex. 248) As noted above, Local 82 has required employers that did not have collective bargaining agreements with the Local, such as Demers, to enter into agreements with the Local or with employers under contract with the Local, such as Union Payroll, before anyone had

been hired. (Ex. 6 at 89-90) As discussed above, Local 82 members and Perry instructed Demers, a company that did not have a contract with the Local and had not expressed any interest in hiring Local 82 members, that it was required to hire Local 82 members, pay Local 82 contract rates and make the contractually required benefit contributions. (Ex. 6 at 89-90) Demers was referred to Union Payroll for that purpose. (Ex. 6 at 89-90)

Similarly, as Perry admitted during his IRB sworn examination, the Local did not hold contract ratification votes for several trade show employers that only had work "every six months." (Ex. 6 at 62) Instead, without obtaining members' approval and without the promise of future work, the Executive Board allegedly approved these contracts. (Ex. 6 at 62) For example, as Perry acknowledged during his sworn examination, he signed the Arata collective bargaining agreement covering the period April 1, 2009-March 31, 2012 without membership approval. (Ex. 6 at 61-62; Ex. 184) Nor was the alleged Executive Board approval of the Arata contract reflected in the minutes. (Ex. 346) Similarly, the Local produced collective bargaining agreements for trade show employers Shepard and Boston Show Services, covering the period April 1, 2009 to March 31, 2012. (Exs. 36 and 38) These

contracts were not presented to the Executive Board or to the members for approval before Perry signed them on behalf of the Local. (Exs. 346; Ex. 6 at 57-60)

Atlantic had subcontracted through IBT employers in the past. With Burhoe on board, Perry abandoned that practice and schemed to have Local 82 members work for less than contract compensation.

c. Perry Falsely Claimed He Agreed to Provide Labor to Atlantic, a Non-Union Employer, To Secure Work for Unemployed Movers

Perry claimed during his sworn examination that he intended the work for Atlantic to go to out of work movers in Local 82. (Ex. 6 at 134) His alleged concern for Local members was contradicted by what he did. Perry did not ensure that the work on the Atlantic job went to out-of-work movers. (Ex. 6 at 134) Instead, he gave the privilege of awarding work to Burhoe who did what he always did when Perry put him in that position.

Perry's false claim of concern for unemployed members is also found in contemporaneous statements he made to a Local Executive Board member, apparently designed to lull him into inaction. (Ex. 30 at 27) According to Local 82 Trustee Murphy, Perry told him that Perry was trying to get

out of work movers to do the liquidator's dismantling and moving. (Ex. 30 at 27)

Trustee Murphy, who was a steward for Spry Moving Company, testified that he called Perry and asked if Perry was going to get unemployed movers to work the Atlantic job. (Ex. 30 at 27) According to Murphy, Perry responded, "Yeah, who do you have in mind?" (Ex. 30 at 27)¹¹⁸ That appears to have been the complete extent of Perry's efforts to get work to the unemployed members he was allegedly trying to help. After calling Perry, Trustee Murphy referred four members who were employed by Spry Moving Company, including Murphy's son, Daniel Murphy ("D. Murphy"), Michael McMahon, Dennis Disharoon, and Tom Lee.¹¹⁹ (Ex. 30 at 16, 26-27) Murphy contacted Ginesky directly and asked that his son, D. Murphy, be put on the job. (Ex. 30 at 16-17)

Indeed, the work was not reserved for out of work movers as Perry claimed. Deamicis, who worked on it, had more total hours worked than any other Local member for the

¹¹⁸ In addition, Perry claimed that he announced the job at a membership meeting. (Ex. 6 at 134) There is no support for that in the minutes which have a detailed discussion of Atlantic. (Ex. 302)

¹¹⁹ According to Atlantic's payroll records, by checks dated September 25, 2009, Atlantic paid Disharoon and D. Murphy \$450 and McMahon \$750. (Exs. 294 and 304) In addition, Atlantic paid Lee a total of \$1,200, \$750 by check dated September 25, 2009 and \$450 by check dated September 30, 2009. (Ex. 294)