

INDEPENDENT DISCIPLINARY OFFICERS

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Independent Review Officer
Hon. Benjamin R. Civiletti

Independent Investigations Officer
Hon. Joseph E. diGenova

July 18, 2016

Administrator
John J. Cronin, Jr., CPA

James P. Hoffa
General President
International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, D.C. 20001

Re: Charges Against Rome Aloise

Dear General President Hoffa,

Pursuant to Paragraph 33 of the Final Agreement and Order ("Final Order") in *United States v. International Brotherhood of Teamsters*, No. 88-4486, I hereby notify you of my determination that the Union has not pursued the disciplinary proceeding against Rome Aloise in a lawful, responsible, or timely matter; and that the Union's decision, based on Mr. Aloise's request, to stay for an indefinite period of time the date of the hearings on the charges against him, pending the resolution of any criminal investigation against him, is inadequate under the circumstances.

The Union based its decision to suspend the hearings against Mr. Aloise indefinitely upon a ground that the United States Court of Appeals for the Second Circuit has previously held is an inadequate legal basis for delaying or refusing to hold a disciplinary hearing against a Union member.

On May 18, 2016, counsel for Mr. Aloise requested that the Union delay the scheduled disciplinary hearings on the ground that he had been informed that Mr. Aloise was the subject of a criminal investigation. In a letter dated June 3, 2016 from its counsel to the Independent Review Officer, the Union justified the indefinite postponement of the hearings under Article XIX, § 7(a) of its Constitution, which provides that "no member or officer shall be required to stand trial on charges involving the same set of facts as to which he is facing criminal or civil trial until his final court appeal had been concluded." The Union asserted that this provision made it improper for it to conduct a disciplinary action against a member like Mr. Aloise, who purportedly is the subject

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

of a pending criminal investigation by the Department of Justice but who has not been indicted or formally charged with a criminal violation.

However, in *United States v. International Brotherhood of Teamsters* ("Carey and Hamilton Discipline"), 247 F.3d 370 (2d Cir. 2001), the Court of Appeals expressly rejected a similar argument by a member who was under criminal investigation by the United States, but had not yet been indicted at the time the Union conducted its disciplinary hearing. Hamilton claimed that the Union had denied him a full and fair hearing under Article XIX, § 7(a) by denying him a stay pending resolution of the investigation. The Second Circuit expressly held that "Hamilton's claim that the denial of his first request for a stay violated the IBT Constitution is meritless because at the time of his request he was not facing any trial." *Id.* at 387. Here, Mr. Aloise is in the same position as Hamilton was at the time of his scheduled hearing; he may be under investigation for potential violation of the criminal laws, but he is not under indictment and is not facing a criminal trial.

Under Paragraph 49 of the Final Order, the Second Circuit's decisions issued under the Consent Decree continue to govern under the Final Order. Accordingly, the Union violated the provisions of the Final Order by basing its indefinite stay of the Aloise hearings on an interpretation of its Constitution that had been expressly rejected by the federal courts in *Hamilton*. That decision was available to Mr. Aloise's counsel in the Federal Reports, and the Union suspended the disciplinary hearings with full knowledge of the established precedent that precluded its action.

Pursuant to Paragraph 33 of the Final Order, the Union has 20 days to inform the Independent Review Officer in writing that a prompt hearing on the charges against Mr. Aloise has been scheduled. If the Union does not do so, the Independent Review Officer will promptly schedule a de novo hearing on the charges against Mr. Aloise.

Given the time that has passed since Mr. Aloise was first notified of the charges against him, and given the prior grant of the Union's request for an extension of time to conduct its disciplinary hearing, the Independent Review Officer will consider the Union's actions to correct the defects set forth in this Notice not to have been pursued in a lawful, responsible or timely manner, and to be inadequate in the circumstances, unless the Union disciplinary hearing is scheduled to be held and completed, and written findings concerning the specific actions taken by the Union

and the reasons for those actions submitted to the Independent Review Officer, by no later than September 15, 2016.

Failure by the Union to comply with this timetable and conduct such a hearing will be considered to constitute a second serious violation of the Final Order.

Very truly yours,

Independent Review Officer
Honorable Benjamin R. Civiletti

By: 

John J. Cronin, Jr.
Administrator

cc: Bradley T. Raymond, Esq.
Viet D. Dinh, Esq.
Mr. Rome Aloise
Edward A. McDonald, Esq.
Joseph E. diGenova, Esq.