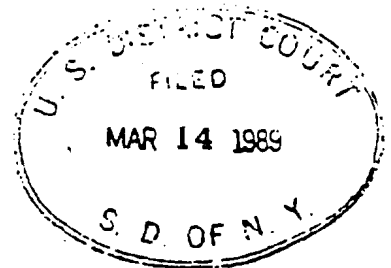


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

Plaintiff,

-v-

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, CHAUFFEURS,
WAREHOUSEMEN AND HELPERS
OF AMERICA, AFL-CIO, et al.,

Defendants.

ORDER

88 CIV. 4486 (DNE)

WHEREAS, plaintiff United States of America commenced this action on June 28, 1988, by filing a Complaint seeking equitable relief involving the International Brotherhood of Teamsters, AFL-CIO (hereinafter, "the IBT"), pursuant to the civil remedies provisions of the Racketeer Influenced and Corrupt Organizations ("RICO") Act, 18 U.S.C. § 1964; and

WHEREAS, the Summons and Complaint have been served, answers filed, and pretrial discovery commenced by and between the parties; and

WHEREAS, plaintiff United States of America and defendants IBT and its General Executive Board, William J. McCarthy, Weldon Mathis, Joseph Trerotola, Joseph W. Morgan, Edward M. Lawson, Arnold Weinmeister, Donald Peters, Walter J. Shea, Harold Friedman, Jack D. Cox, Don L. West, Michael J. Riley, Theodore Cozza and Daniel Ligurotis (hereinafter, the "union defendants") have consented to entry of this order; and

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WHEREAS, the union defendants acknowledge that there have been allegations, sworn testimony and judicial findings of past problems with La Cosa Nostra corruption of various elements of the IBT; and

WHEREAS, the union defendants agree that there should be no criminal element or La Cosa Nostra corruption of any part of the IBT; and

WHEREAS, the union defendants agree that it is imperative that the IBT, as the largest trade union in the free world, be maintained democratically, with integrity and for the sole benefit of its members and without unlawful outside influence;

IT IS HEREBY ORDERED AND DECREED That:

A. COURT JURISDICTION

1. This Court has jurisdiction over the subject matter of the action, has personal jurisdiction over the parties, and shall retain jurisdiction over this case until further order of the Court.

2. Upon satisfactory completion and implementation of the terms and conditions of this order, this Court shall entertain a joint motion of the parties hereto for entry of judgment dismissing this action with prejudice and without costs to either party.

B. DURATION

3. The authority of the court officers established in paragraph no. 12 herein shall terminate after the certification of the 1991 election results by the Election Officer for all IBT International Officers as provided in this Order, except as follows:

(1) The Election Officer and the Administrator shall have the authority to resolve all disputes concerning the conduct and/or results of the elections conducted in 1991 under the authority granted to them under paragraph 12(D) herein, and the Investigations Officer and the Administrator shall have the authority to investigate and discipline any corruption associated with the conduct and/or results of the elections to be conducted in 1991 under the authority granted them under paragraph 12(A) and (C) herein, so long as said investigation is begun within six months of the final balloting.

(2) The Investigations Officer and the Administrator shall have the authority to resolve to completion and decide all charges filed by the Investigations Officer on or before the date on which the authority granted to them under paragraphs 12(A) and (C) herein terminates the authority pursuant to subparagraph (3) below.

(3) The role and authority provided for in paragraphs 12 and 13 of this Order regarding the Investigations Officer and the Administrator and their relationship with the Independent Review Board shall terminate not later than nine (9) months after the certification of the 1991 election results.

(4) As used herein, the date referred to as "the certification of the 1991 election results" shall be construed to mean either the date upon which the Election Officer certifies the 1991 election results for all IBT International Officers or one month after the final balloting, whichever is shorter.

C. STATUS OF THE INDIVIDUAL UNION DEFENDANTS

4. The union defendants herein remain as officers of the IBT, subject to all of the terms herein, including the disciplinary authority of the Court-appointed officers, described in paragraph 12(A) herein.

D. CHANGES IN THE IBT CONSTITUTION

5. The portion of Section 6(a) of Article XIX of the IBT Constitution that provides, "Any charge based upon alleged conduct which occurred more than one (1) year prior to the filing of such charge is barred and shall be rejected by the Secretary-Treasurer, except charges based upon the non-payment of dues, assessment and other financial obligations," shall be and hereby is amended to provide for a five (5) year period, running from the discovery of the conduct giving rise to the charge. This limitation period shall not apply to any actions taken by the Investigations Officer or the Administrator.

6. Section 6(a) of Article XIX of the IBT Constitution shall be deemed and is hereby amended to include the following: "Nothing herein shall preclude the General President and/or General Executive Board from suspending a member or officer facing criminal or civil trial while the charges are pending."

7. Immediately after the conclusion of the IBT elections to be conducted in 1991, Section 8 of Article VI of the IBT Constitution shall be deemed and hereby is amended to provide that a special election be held whenever a vacancy occurs in the office of IBT General President, pursuant to the procedures described later herein for election of IBT General President.

8. Article IV, Section 2 of the IBT Constitution shall be deemed and is hereby amended to include a new paragraph as follows:

"No candidate for election shall accept or use any contributions or other things of value received from any employers, representative of an employer, foundation, trust or any similar entity. Nothing herein shall be interpreted to prohibit receipt of contributions from fellow employees and members of this International Union. Violation of this provision shall be grounds for removal from office."

9. (a) The IBT Constitution shall be deemed and hereby is amended to incorporate and conform with all of the terms set forth in this order.

(b) By no later than the conclusion of the IBT convention to be held in 1991, the IBT shall have formally amended the IBT Constitution to incorporate and conform with all of the terms set forth in this order by presenting said terms to the delegates for a

vote. If the IBT has not formally so amended the IBT Constitution by that date, the Government retains the right to seek any appropriate action, including enforcement of this order, contempt or reopening this litigation.

E. PERMANENT INJUNCTION

10. Defendants William J. McCarthy, Weldon Mathis, Joseph Trerotola, Joseph W. Morgan, Edward M. Lawson, Arnold Weinmeister, Donald Peters, Walter J. Shea, Harold Friedman, Jack D. Cox, Don L. West, Michael J. Riley, Theodore Cozza and Daniel Ligurotis, as well as any other or future IBT General Executive Board members, officers, representatives, members and employees of the IBT, are hereby permanently enjoined from committing any acts of racketeering activity, as defined in 18 U.S.C. § 1961 et seq., and from knowingly associating with any member or associate of the Colombo Organized Crime Family of La Cosa Nostra, the Genovese Organized Crime Family of La Cosa Nostra, the Gambino Organized Crime Family of La Cosa Nostra, the Lucchese Organized Crime Family of La Cosa Nostra, the Bonnano Organized Crime Family of La Cosa Nostra, any other Organized Crime Families of La Cosa Nostra or any other criminal group, or any person otherwise enjoined from participating in union affairs, and from obstructing or otherwise interfering with the work of the court-appointed officers or the Independent Review Board described herein.

11. As used herein, the term, "knowingly associating," shall have the same meaning as that ascribed to that term in the context of comparable federal proceedings or federal rules and regulations.

F. COURT-APPOINTED OFFICERS

12. The Court shall appoint three (3) officers -- an Independent Administrator, an Investigations Officer and an Election Officer -- to be identified and proposed by the Government and the union defendants, to oversee certain operations of the IBT as described herein. The parties shall jointly propose to the Court at least two persons for each of these three positions. Such proposal shall be presented to the Court within four weeks of the date of the entry of this Order, except that for good cause shown such period may be extended by the Court. Except as otherwise provided herein, the duties of those three officers shall be the following:

(A) DISCIPLINARY AUTHORITY -- From the date of the Administrator's appointment until the termination of the Administrator's authority as set forth in paragraph 3(3) herein, the Administrator shall have the same rights and powers as the IBT's General President and/or General Executive Board under the IBT's Constitution (including Articles VI and XIX thereof) and Title 29 of the United States Code to discharge those duties which relate to: disciplining corrupt or dishonest officers, agents, employees or

members of the IBT or any of its affiliated entities (such as IBT Locals, Joint Councils and Area Conferences), and appointing temporary trustees to run the affairs of any such affiliated entities. The Investigations Officer shall have the authority to investigate the operation of the IBT or any of its affiliates and, with cause,

(i) To initiate disciplinary charges against any officer, member or employee of the IBT or any of its affiliates in the manner specified for members under the IBT Constitution and,

(ii) To institute trusteeship proceedings for the purpose and in the manner specified in the IBT Constitution.

Prior to instituting any trusteeship proceeding the Investigations Officer shall notify the General President of the Investigations Officer's plan to institute said trusteeship proceeding and the basis therefor and give the General President ten (10) days to exercise his authority pursuant to the IBT Constitution to institute such trusteeship proceedings. If the General President timely institutes such proceedings and/or a trusteeship is imposed, the Investigations Officer and the Administrator shall have authority to review any action thus taken by the General President and/or any trusteeship imposed thereafter and to modify any aspect of either of the above at any time and in any manner consistent with applicable federal law. If the General President fails to institute trusteeship

proceedings within the ten-day period prescribed herein, the Investigations Officer may immediately proceed in accordance with the authority specified above.

When the Investigations Officer files charges, the following procedures shall be observed:

(a) the Investigations Officer shall serve written specific charges upon the person charged;

(b) the person charged shall have at least thirty (30) days prior to hearing to prepare his or her defense;

(c) a fair and impartial hearing shall be conducted before the Administrator;

(d) the person charged may be represented by an IBT member at the hearing; and

(e) the hearing shall be conducted under the rules and procedures generally applicable to labor arbitration hearings.

The Administrator shall preside at hearings in such cases and decide such cases using a "just cause" standard. The Investigations Officer shall present evidence at such hearings. As to decisions of the IBT General Executive Board on disciplinary charges and trusteeship proceedings during the Administrator's tenure, the Administrator shall review all such decisions, with the right to affirm, modify or reverse such decisions and, with respect to trusteeship proceedings, to exercise the authority granted above in this paragraph. Any decision of the Administrator shall be final

and binding, subject to the Court's review as provided herein. For a period of up to fourteen (14) days after the Administrator's decision, any person charged or entity placed in trusteeship adversely affected by the decision shall have the right to seek review by this Court of the Administrator's decision. The Administrator shall also have the right to establish and disseminate new guidelines for investigation and discipline of corruption within the IBT. All of the above actions of the Administrator and Investigations Officer shall be in compliance with applicable Federal laws and regulations.

(B) REVIEW AUTHORITY -- From the date of the Administrator's appointment until the certification of the IBT elections to be conducted in 1991, the Administrator shall have the authority to veto whenever the Administrator reasonably believes that any of the actions or proposed actions listed below constitutes or furthers an act of racketeering activity within the definition of Title 18 U.S.C. §1961, or furthers or contributes to the association directly, or indirectly, of the IBT or any of its members with the LCN or elements thereof:

(i) any expenditures or proposed expenditure of International Union funds or transfer of International Union property approved by any officers, agents, representatives or employees of the IBT,

(ii) any contract or proposed contract on behalf of the International Union, other than collective bargaining agreements, and

(iii) any appointment or proposed appointments to International Union office of any officer, agent, representative or employee of the IBT.

In any case where the Administrator exercises veto authority, the action or proposed action shall not go forward. The Administrator, upon request of the IBT's General President or General Executive Board, shall, within three (3) days, advise the IBT's General President and/or General Executive Board whichever is applicable, of the reasons for any such veto. For a period of up to fourteen (14) days after the Administrator's decision, the IBT's President and/or General Executive Board shall have the right to seek review by this Court of the Administrator's decision. The Administrator may prescribe any reasonable mechanism or procedure to provide for the Administrator's review of actions or proposed actions by the IBT, and every officer, agent, representative or employee of the IBT shall comply with such mechanism or procedure.

(C) ACCESS TO INFORMATION -- (i) The Investigations Officer shall have the authority to take such reasonable steps that are lawful and necessary in order to be fully informed about the activities of the IBT in accordance with the procedures as herein established. The Investigations Officer shall have the right:

(a) To examine books and records of the IBT and its affiliates, provided the entity to be examined receives three (3) business days advance notice in writing, and said entity has the right to have its representatives present during said examination.

(b) To attend meetings or portions of meetings of the General Executive Board relating in any way to any of the officer's rights or duties as set forth in this Order, provided that prior to any such meeting, the officer shall receive an agenda for the meeting and then give notice to the General President of the officer's anticipated attendance.

(c) To take and require sworn statements or sworn in-person examinations of any officer, member, or employee of the IBT provided the Investigations Officer has reasonable cause to take such a statement and provided further that the person to be examined receives at least ten (10) days advance notice in writing and also has the right to be represented by an IBT member or legal counsel of his or her own choosing, during the course of said examination.

(d) To take, upon notice and application for cause made to this Court, which shall include affidavits in support thereto, and the opportunity for rebuttal affidavits, the sworn statements or sworn in person examination of persons who are agents of the IBT (and not covered in subparagraph (c) above).

(e) To retain an independent auditor to perform audits upon the books and records of the IBT or any of its affiliated

entities (not including benefit funds subject to ERISA), provided said entity receives three (3) business days advance notice in writing and said entity has the right to have its representatives present during the conduct of said audit.

(ii) The Independent Administrator and the Election Officer shall have the same rights as the Investigations Officer as provided in sections (a), (b), (c) and (d) of A, herein.

(iii) The Independent Administrator, Investigations Officer and Election Officer shall each be provided with suitable office space at the IBT headquarters in Washington, D.C.

D. IBT ELECTION -- The IBT Constitution shall be deemed amended, and is hereby amended, to provide for the following new election procedures:

(i) The procedures described herein shall apply to elections of the IBT's General President, General Secretary-Treasurer, International Union Vice Presidents, and International Union Trustees;

(ii) Delegates to the IBT International convention at which any International Union officers are nominated or elected shall be chosen by direct rank-and-file secret balloting shortly before the convention (but not more than six months before the convention, except for those delegates elected at local union elections scheduled

to be held in the fall of 1990), and with all convention Candidate election voting by secret ballot of each delegate individually;

(iii) Delegates shall nominate candidates for eleven (11) Regional Vice Presidents, as follows: Three (3) from the Eastern Conference, three (3) from the Central Conference, two (2) from the Southern Conference, two (2) from the Western Conference, and one (1) from the Canadian Conference. In addition, there shall be nominated candidates for five (5) Vice Presidents to be elected at large. All duly nominated Vice Presidents shall stand for election conducted at local unions on the same ballot and time as the election of General President and General Secretary-Treasurer, as provided herein;

(iv) At such an International convention, after the nomination of International Union Vice Presidents and election of Trustees, all delegates shall then vote for nominees for the offices of IBT General President and Secretary-Treasurer;

(v) To qualify for the ballot for the direct rank-and-file voting for IBT General President, Secretary-Treasurer, and Vice President, candidates must receive at least five (5) percent of the delegate votes at the International convention, for the at large position, or by conference for regional positions, as the case may be;

(vi) No person on the ballot for the position of IBT General President may appear on the ballot in the same election year

for the position of Secretary-Treasurer; and further no member shall be a candidate for more than one (1) Vice President position;

(vii) No less than four (4) months and no more than six (6) months after the International convention at which candidates were nominated, the IBT General President, General Secretary-Treasurer and Vice Presidents shall be elected by direct rank-and-file voting by secret ballot in unionwide, one-member, one-vote elections for each at large position, and conference wide, one-member one-vote elections for each regional position;

(viii) All direct rank-and-file voting by secret ballot described above shall be by in-person ballot box voting at local unions or absentee ballot procedures where necessary, in accordance with Department of Labor regulations; and

(ix) The current procedures under the IBT Constitution for filling a vacancy between elections in the office of General Secretary-Treasurer, International Trustee, and International Vice President shall remain in effect.

The Election Officer shall supervise the IBT election described above to be conducted in 1991 and any special IBT elections that occur prior to the IBT elections to be conducted in 1991. In advance of each election, the Election Officer shall have the right to distribute materials about the election to the IBT membership. The Election Officer shall supervise the balloting process and certify the election results for each of these elections as promptly

as possible after the balloting. Any disputes about the conduct and/or results of elections shall be resolved after hearing by the Administrator.

The union defendants consent to the Election Officer, at Government expense, to supervise the 1996 IBT elections. The union defendants further consent to the U.S. Department of Labor supervising any IBT elections or special elections to be conducted after 1991 for the office of the IBT General President, IBT General Secretary-Treasurer, IBT Vice President, and IBT Trustee.

At the IBT 1991 International Convention, the delegates shall be presented with these aforesaid amendments for vote; provided further that nothing herein shall be deemed or interpreted or applied to abridge the Landrum-Griffin free speech right of any IBT officer, delegate or member, including the parties hereto.

(E) REPORTS TO MEMBERSHIP -- The Administrator shall have the authority to distribute materials at reasonable times to the membership of the IBT about the Administrator's activities. The reasonable cost of distribution of these materials shall be borne by the IBT. Moreover, the Administrator shall have the authority to publish a report in each issue of the International Teamster concerning the activities of the Administrator, Investigations Officer and Election Officer.

(F) REPORTS TO THE COURT -- The Administrator shall report to the Court whenever the Administrator sees fit but, in any

event, shall file with the Court a written report every three (3) months about the activities of the Administrator, Investigations Officer and Election Officer. A copy of all reports to the Court by the Administrator shall be served on plaintiff United States of America, the IBT's General President and duly designated IBT counsel.

(G) HIRING AUTHORITY -- The Administrator, the Investigations Officer and the Election Officer shall have the authority to employ accountants, consultants, experts, investigators or any other personnel necessary to assist in the proper discharge of their duties. Moreover, they shall have the authority to designate persons of their choosing to act on their behalf in performing any of their duties, as outlined in subparagraphs above. Whenever any of them wish to designate a person to act on their behalf, they shall give prior written notice of the designation to plaintiff United States of America, and the IBT's General President; and those parties shall then have the right, within fourteen (14) days of receipt of notice, to seek review by this Court of the designation, which shall otherwise take effect fourteen (14) days after receipt of notice.

(H) COMPENSATION AND EXPENSES -- The compensation and expenses of the Administrator, the Investigations Officer and the Election Officer (and any designee or persons hired by them) shall be paid by the IBT. Moreover, all costs associated with the activities of these three officials (and any designee or persons hired by them)

shall be paid by the IBT. The Administrator, Investigations Officer and Election Officer shall file with the Court (and serve on plaintiff United States of America and the IBT's General President and designated IBT counsel) an application, including an itemized bill, with supporting material, for their services and expenses once every three months. The IBT's General President shall then have fourteen (14) business days following receipt of the above in which to contest the bill before this Court. If the IBT's President fails to contest such a bill within that 14-day period, the IBT shall be obligated to pay the bill. In all disputes concerning the reasonableness of the level or amount of compensation or expense to be paid, the Court and parties shall be guided by the level of payment as authorized and approved by the IBT for the payment of similar services and expenses.

(I) APPLICATION TO THE COURT -- The Administrator may make any application to the Court that the Administrator deems warranted. Upon making any application to the Court, the Administrator shall give prior notice to plaintiff United States of America, the IBT's General President and designated IBT counsel and shall serve any submissions filed with the Court on plaintiff United States of America, the IBT's General President and designated IBT counsel. Nothing herein shall be construed as authorizing the parties or the Court-appointed officers to modify, change or amend the terms of this Order.

G. INDEPENDENT REVIEW BOARD

Following the certification of the 1991 election results, there shall be established an Independent Review Board, (hereinafter, referred to as the "Review Board"). Said Board shall consist of three members, one chosen by the Attorney General of the United States, one chosen by the IBT and a third person chosen by the Attorney General's designee and the IBT's designee. In the event of a vacancy, the replacement shall be selected in the same manner as the person who is being replaced was selected.

(a) The Independent Review Board shall be authorized to hire a sufficient staff of investigators and attorneys to investigate adequately (1) any allegations of corruption, including bribery, embezzlement, extortion, loan sharking, violation of 29 U.S.C. §530 of the Landrum Griffin Act, Taft-Hartley Criminal violations or Hobbs Act violations, or (2) any allegations of domination or control or influence of any IBT affiliate, member or representative by La Cosa Nostra or any other organized crime entity or group, or (3) any failure to cooperate fully with the Independent Review Board in any investigation of the foregoing.

(b) The Independent Review Board shall exercise such investigative authority as the General President and General Secretary-Treasurer are presently authorized and empowered to exercise pursuant to the IBT Constitution, as well as any and all applicable provisions of law.

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

(d) Upon completion of an investigation, the Independent Review Board shall issue a written report detailing its findings, charges, and recommendations concerning the discipline of union officers, members, employees, and representatives and concerning the placing in trusteeship of any IBT subordinate body. Such written reports shall be available during business hours for public inspection at the IBT office in Washington, D.C.

(e) Any findings, charges, or recommendations of the Independent Review Board regarding discipline or trusteeship matters shall be submitted in writing to an appropriate IBT entity (including designating a matter as an original jurisdiction case for General Executive Board review), with a copy sent to the General President and General Executive Board. The IBT entity to which a matter is referred shall thereupon promptly take whatever action is appropriate under the circumstances, as provided by the IBT Constitution and applicable law. Within 90 days of the referral, that IBT entity must

make written findings setting forth the specific action taken and the reasons for that action.

(f) The Independent Review Board shall monitor all matters which it has referred for action if, in its sole judgment, a matter has not been pursued and decided by the IBT entity to which the matter has been referred in a lawful, responsible, or timely manner, or that the resolution proposed by the relevant IBT entity is inadequate under the circumstances, the Independent Review Board shall notify the IBT affiliate involved of its view, and the reasons therefor. A copy of said notice shall be sent by the Independent Review Board, to the General President and the General Executive Board.

(g) Within 10 days of the notice described in paragraph (f) above, the IBT entity involved shall set forth in writing any and all additional actions it has taken and/or will take to correct the defects set forth in said notice and a deadline by which said action may be completed. Immediately thereafter, the Independent Review Board shall issue a written determination concerning the adequacy of the additional action taken and/or proposed by the IBT entity involved. If the Independent Review Board concludes that the IBT entity involved has failed to take or propose satisfactory action to remedy the defects specified by the Independent Review Board's notice, the Independent Review Board shall promptly convene a hearing, after notice to all affected parties. All parties shall be

permitted to present any facts, evidence, or testimony which is relevant to the issue before the Independent Review Board . Any such hearing shall be conducted under the rules and procedures generally applicable to labor arbitration hearings.

(h) After a fair hearing has been conducted, the Independent Review Board shall issue a written decision which shall be sent to the General President, each member of the General Executive Board, and all affected parties.

(i) The decision of the Independent Review Board shall be final and binding, and the General Executive Board shall take all action which is necessary to implement said decision, consistent with the IBT Constitution and applicable Federal laws.

(j) The Independent Review Board shall have the right to examine and review the General Executive Board's implementation of the Independent Review Board's decisions; in the event the Independent Review Board is dissatisfied with the General Executive Board's implementation of any of its decisions, the Independent Review Board shall have the authority to take whatever steps are appropriate to insure proper implementation of any such decision.

(k) The Independent Review Board shall be apprised of and have the authority to review any disciplinary or trusteeship decision of the General Executive Board, and shall have the right to affirm, modify, or reverse any such decision. The Independent Review Board's

affirmance, modification, or reversal of any such General Executive Board decision shall be in writing and final and binding.

(l) The IBT shall pay all costs and expenses of the Independent Review Board and its staff (including all salaries of Review Board members and staff). Invoices for all such costs and expense shall be directed to the General President for payment.

(m) The Investigations Officer and the Administrator shall continue to exercise the investigatory and disciplinary authority set forth in paragraph 12 above for the limited period set forth in paragraph 3(3) above, provided, however, that the Investigations Officer and the Administrator may, instead, refer any such investigation or disciplinary matter to the Independent Review Board.

(n) The IBT Constitution shall be deemed and hereby is amended to incorporate all of the terms relating to the Independent Review Board set forth above in this paragraph. This amendment shall be presented to the delegates to the 1991 Convention for vote.

H. INDEMNIFICATION

13. The IBT shall purchase a policy of insurance in an appropriate amount to protect the Administrator, the Investigations Officer, the Election Officer and persons acting on their behalf from personal liability for any of their actions on behalf of the IBT, the Administrator, the Investigations Officer or the Election Officer. If such insurance is not available, or if the IBT so elects, the IBT

shall indemnify the Administrator, Investigations Officer, Election Officer and persons acting on their behalf from any liability (or costs incurred to defend against the imposition of liability) for conduct taken pursuant to this order. That indemnification shall not apply to conduct not taken pursuant to this order. In addition, the Administrator, the Investigations Officer, the Election Officer and any persons designated or hired by them to act on their behalf shall enjoy whatever exemptions from personal liability may exist under the law for court officers.

I. IBT LEGAL COUNSEL

14. During the term of office of the court-appointed officers, the IBT General President shall have the right to employ or retain legal counsel to provide consultation and representation to the IBT with respect to this litigation, to negotiate with the appropriate official and to challenge the decisions of the court-appointed officers, and may use union funds to pay for such legal consultation and representation. The Administrator's removal powers and authority over union expenditures shall not apply to such legal consultation and representation.

J. NON-WAIVER

15. To the extent that such evidence would be otherwise admissible under the Federal Rules of Evidence, nothing herein shall be construed as a waiver by the United States of America or the United States Department of Labor of its right to offer proof of any allegation contained in the Complaint, Proposed Amended Complaint, declarations or memoranda filed in this action, in any subsequent proceeding which may lawfully be brought.

K. APPLICATION TO COURT

16. This Court shall retain jurisdiction to supervise the activities of the Administrator and to entertain any future applications by the Administrator or the parties. This Court shall have exclusive jurisdiction to decide any and all issues relating to the Administrator's actions or authority pursuant to this order. In reviewing actions of the Administrator, the Court shall apply the same standard of review applicable to review of final federal agency action under the Administrative Procedure Act.

L. FUTURE PRACTICES

17. The parties intend the provisions set forth herein to govern future IBT practices in those areas. ⁴To the extent the IBT wishes to make any changes, constitutional or otherwise, in those provisions, the IBT shall give prior written notice to the plaintiff,

through the undersigned. If the plaintiff then objects to the proposed changes as inconsistent with the terms and objectives of this order, the change shall not occur; provided, however, that the IBT shall then have the right to seek a determination from this Court, or, after the entry of judgment dismissing this action, from this Court or any other federal court of competent jurisdiction as to whether the proposed change is consistent with the terms and objectives set forth herein.

M. SCOPE OF ORDER

18. Except as provided by the terms of this order, nothing else herein shall be construed or interpreted as affecting or modifying: (a) the IBT Constitution; (b) the Bylaws and Constitution of any IBT affiliates; (c) the conduct and operation of the affairs of the IBT or any IBT-affiliated entity or any employee benefit fund as defined in ERISA or trust fund as defined by Section 302(c) of the Labor Management Relations Act, as amended; (d) the receipt of any compensation or benefits lawfully due or vested to any officer, member or employee of the IBT or any of its affiliates and affiliated benefit fund; or (e) the term of office of any elected or appointed IBT officer or any of the officers of any IBT-affiliated entities.

N. NON-ADMISSION CLAUSE

19. Nothing herein shall be construed as an admission by any of the individual union defendants of any wrongdoing or breach of any legal or fiduciary duty or obligation in the discharge of their duties as IBT officers and members of the IBT General Executive Board.

O. FUTURE ACTIONS

20. Nothing herein shall preclude the United States of America or the United States Department of Labor from taking any appropriate action in regard to any of the union defendants in reliance on federal laws, including an action or motion to require disgorgement of pension, severance or any other retirement benefits of any individual union officer defendant on whom discipline is imposed pursuant to paragraph 12 above.

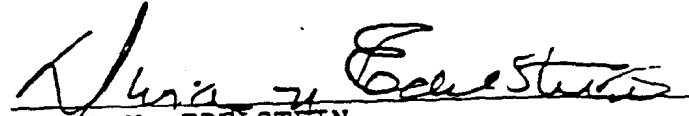
P. LIMITS OF ORDER

21. Nothing herein shall create or confer or is intended to create or confer, any enforceable right, claim or benefit on the part of any person or entity other than to the parties hereto and the court-appointed officers established herein. As to the undersigned defendants hereto, this order supercedes ^{the} order of the Court entered on June 28, 1988, as thereafter extended.

Q. EXECUTION

22. Each of the undersigned individual defendants has read this order and has had an opportunity to consult with counsel before signing the order.

March 14, 1989.


DAVID N. EDELSTEIN
United States District Judge

CONSENTED TO:

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Attorney for Plaintiff
United States of America

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and its General Executive Board

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By: James T. Grady
JAMES T. GRADY, ESQUIRE

William J. McCarthy 3/13/89
Defendant WILLIAM J. MCCARTHY

Defendant WELDON MATHIS

Joseph Trerotola
Defendant JOSEPH TREROTOLA

Joseph W. Morgan
Defendant JOSEPH W. MORGAN

Defendant EDWARD M. LAWSON

Arnold Weinmeister
Defendant ARNOLD WEINMEISTER

Donald Peters
Defendant DONALD PETERS

Walter J. Shea
Defendant WALTER J. SHEA

Harold Friedman
Defendant HAROLD FRIEDMAN

Jack D. Cox
Defendant JACK D. COX

Defendant DON L. WEST

Michael J. Riley
Defendant MICHAEL J. RILEY

T. R. Cizza
Defendant THEODORE CIZZA

Daniel J. Liguoroti
Defendant DANIEL LIGUROTIS



RMM:mmm
cv-715/2

U.S. Department of Justice

United States Attorney
Southern District of New York

One Saint Andrew's Place
New York, New York 10007

March 13, 1989

Jed S. Rakoff, Esq.
Mudge Rose Guthrie Alexander & Ferdon
180 Maiden Lane
New York, New York 10038

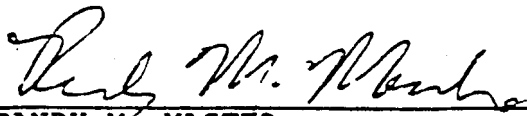
United States v. I.B.T., et al.
88 Civ. 4486 (DNE)

Dear Mr. Rakoff:

This is to confirm our mutual understanding that, when the Independent Review Board is constituted pursuant to the terms of the proposed settlement, a majority vote of the three-person Independent Review Board shall constitute a binding decision of that Board and the Attorney General and the IBT shall act promptly to select and/or replace their designees on the Board. Assuming the IBT confirms this understanding (as reflected by your signature below), the United States will accept the proposal endorsed yesterday by the IBT and the remaining individual union officer defendants.

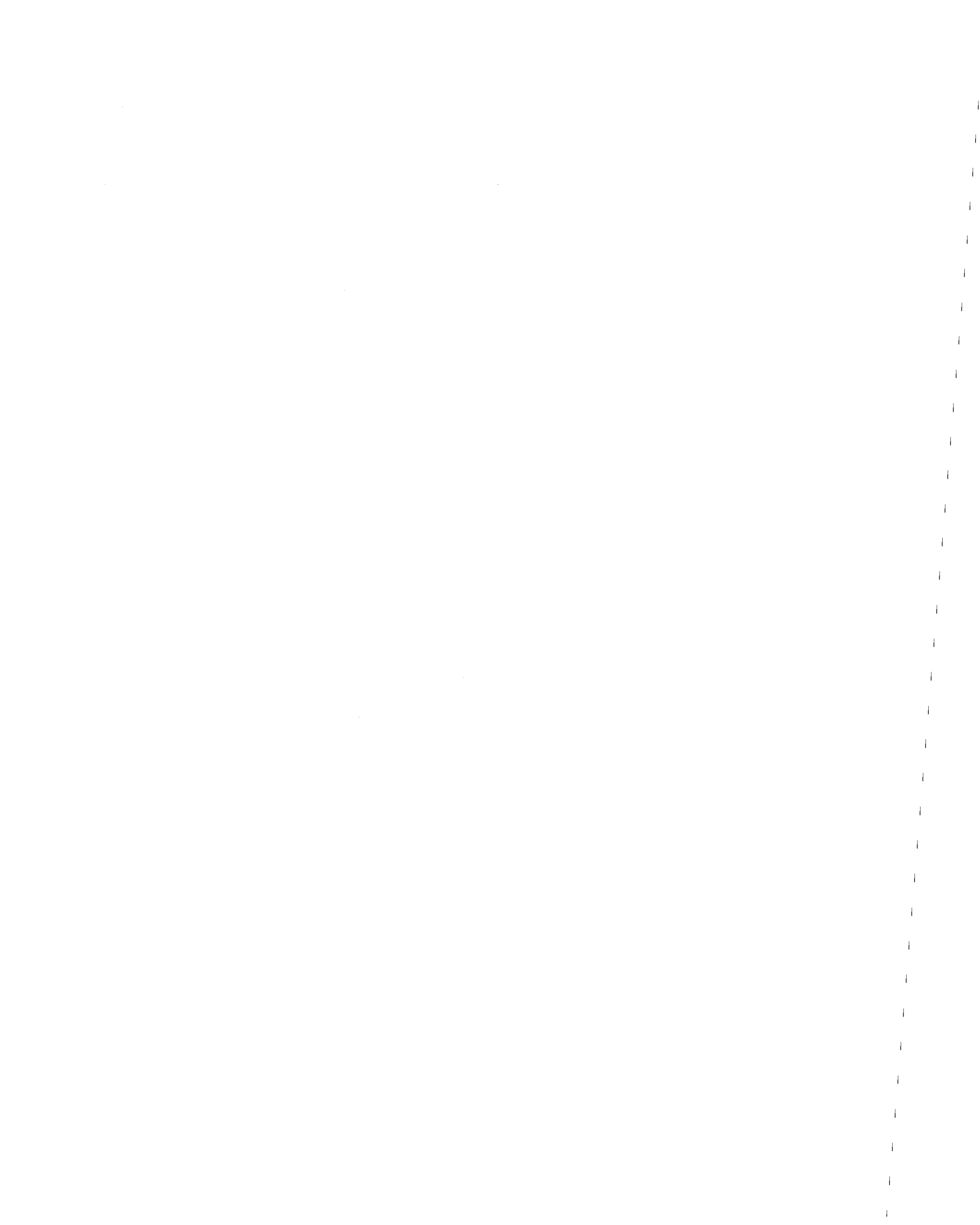
Very truly yours,

BENITO ROMANO
United States Attorney

By: 
RANDY M. MASTRO
Assistant United States Attorney
Tel. No.: (212) 791-0052

AGREED TO:


JED S. RAKOFF, ESQ.





RMM:mm
cv-883/2

U.S. Department of Justice

United States Attorney
Southern District of New York

One Saint Andrew's Plaza
New York, New York 10007

March 15, 1989

BY HAND

Jed S. Rakoff, Esq.
Mudge Rose Guthrie Alexander & Ferdon
180 Maiden Lane
New York, New York 10038

United States v. I.B.T., et al.
88 Civ. 4486 (DNE)

Dear Mr. Rakoff:

As I discussed with Mr. Grady yesterday, this is to confirm the parties' mutual understanding that: (1) nothing in the March 14 order precludes the Secretary of Labor's exercise of authority under the LMRDA or other federal laws; and (2) as to those 1991 IBT convention delegates to be elected at the time of local union elections in the fall of 1990, delegate candidates will be listed separately on the ballot from union officer candidates. Please sign below to confirm your agreement with the above.

Very truly yours,

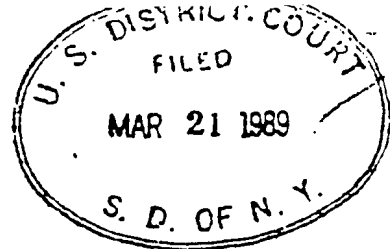
BENITO ROMANO
United States Attorney

By: Randy M. Mastro
RANDY M. MASTRO
Assistant United States Attorney
Tel. No.: (212) 791-0052

AGREED TO:

Jed S. Rakoff
JED S. RAKOFF, ESQ.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



----- x

UNITED STATES OF AMERICA, :

Plaintiff, :

- V. - :

88 Civ. 4486 (DNE)

INTERNATIONAL BROTHERHOOD OF :
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN :
AND HELPERS OF AMERICA, AFL-CIO, :
et al., :

Defendants. :

----- x

ORDER

WHEREAS, on March 10, 1989, this Court signed a Consent Judgment involving the plaintiff United States of America, and Union Defendants Weldon Mathis, Edward Lawson and Donald West; and

WHEREAS, as part of the foregoing Consent Judgment the United States withdrew the above-captioned action against these defendants with prejudice; and

WHEREAS, the remaining Union defendants consented to the entry of an Order signed by this Court on March 14, 1989; and

WHEREAS, the March 14 Order inadvertently recited on page 1 that Messrs. Mathis, Lawson and West "consented to its terms;" and

WHEREAS, the March 14 Order names Mathis, Lawson and West as objects of an injunction contained in paragraph 10; and

WHEREAS, since Mathis, Lawson and West were not defendants in this case after March 10, 1989, it is apparent that they did not consent to the March 14 Order and, therefore, the foregoing references to them were inadvertent and in error;

IT IS HEREBY ORDERED AND DECREED That:

The names of defendants Mathis, Lawson and West should be and hereby are stricken from the third whereas clause on page 1 and from the injunction in paragraph 10 so as to correctly reflect the identities of those who in fact consented to the March 14, 1989 Order.

March 21, 1989.


United States District Judge

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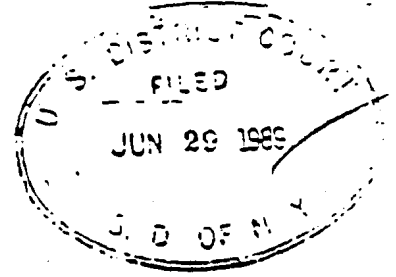
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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UNITED STATES OF AMERICA, :

Plaintiff, : ORDER

- v - : 88 Civ. 4486 (DNE)

INTERNATIONAL BROTHERHOOD OF :
TEAMSTERS, et al., :

Defendants. :
:

-----X

WHEREAS the Consent Order herein dated and filed March 14, 1989 (the "Consent Order") contains certain typographical errors;


-IT IS HEREBY ORDERED AND DECREED that the Consent Order shall be amended as follows:

1. The letter "A" at page 13, line 7 of the Consent Order shall be amended to read "C."

2. The words "the authority" at page 3, line 19 of
the Consent Order shall be deleted.

Dated: New York, New York

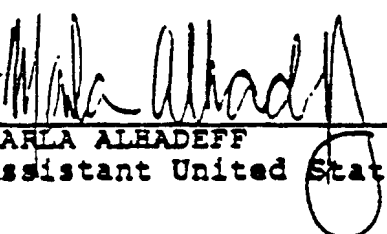
June 28, 1989


DAVID N. EDELSTEIN
United States District Judge

CONSENTED TO:

BENITO ROMANO
United States Attorney
Attorney for Plaintiff
United States of America

By:

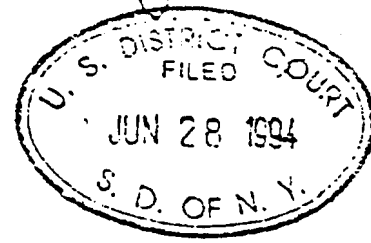

MARLA ALHADEFF
Assistant United States Attorney

MUDGE ROSE GUTHRIE ALEXANDER
& FERDON
Attorneys for Defendants IBT
and its General Executive Board

By:


JED S. RAKOFF, ESQ.

Edelstein



MARY JO WHITE
United States Attorney for the
Southern District of New York
By: CHRISTINE H. CHUNG (CC-7933)
Assistant United States Attorney
100 Church Street -- 19th Floor
New York, New York 10007

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA, :
 :
Plaintiff, : 88 Civ. 4496 (DNE)
 :
- v. - : STIPULATION AND ORDER
 : REGARDING MARCH 21, 1994
INTERNATIONAL BROTHERHOOD OF : APPLICATION OF
TEAMSTERS et al., : DEFENDANT INTERNATIONAL
 : BROTHERHOOD OF TEAMSTERS
Defendants. :
----- X

In re March 21, 1994 Application :
of the International Brotherhood of :
Teamsters :
----- X

1. The plaintiff United States of America (the "Government") and the defendant International Brotherhood of Teamsters (the "IBT") stipulate as follows:
2. This Order emanates from the voluntary settlement in the action commenced by the Government against defendants IBT and the IBT's General Executive Board (the "GEB") embodied in the voluntary consent order entered March 14, 1989 (the "Consent Decree").
3. The instant March 21, 1994 Application has been brought by the IBT pursuant to paragraphs 16 and 17 of the Consent Decree. By its Application, the IBT seeks a ruling that the revocation of the charters of the four United States Area Conferences of the IBT would not be inconsistent with the Consent Decree.

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4. In accordance with paragraph 17 of the Conseil Decree, the Government has reviewed the resolution of the GE. revoke the charters of the four United States Area Conferences the IBT, adopted June 9, 1994. See Resolution of the General Executive Board Adopted June 9, 1994.

5. The Government takes no position on the merits of the June 9, 1994 Resolution or on the legal conclusions expressed therein. Further, the Government is not a party in IBT v. Eastern Conference of Teamsters et al., 94 Civ. ¹⁹⁵⁰(DNE).

6. Subject to the following conditions pertaining to the manner in which the IBT Constitution will be interpreted and applied, the Government does not object to the revocation of the four U.S. Area Conference charters, as effected by means of the June 9, 1994 resolution:

(a) as represented in the June 9, 1994 Resolution, for the purposes of the 1996 IBT Election, the geographical boundaries of the four United States Area Conferences, as they existed at the time of the adoption of the 1991 IBT Constitution, shall determine:

(1) the number of regional Vice-Presidents, for the purpose of satisfying the requirements of Article IV, Section 1(c) of the IBT Constitution;

(2) the voting district of an IBT member, for the purpose of satisfying the requirements of Article IV, Section 3(a) of

the IBT Constitution pertaining to the nomination and election of Vice-Presidents; and

(3) the number of delegate votes needed to qualify for the ballot as a candidate for Vice-President, for the purpose of satisfying the requirements of Article IV, Section 2(a) of the IBT Constitution.

(b) members of Local Union 2000 shall be deemed to be in the Central geographic region for the purposes of participating in the 1996 IBT Election.

(c) Local 901 in Puerto Rico shall be considered part of the Eastern geographic region for the purposes of its members' participation in the 1996 IBT Election.

7. In the event that the IBT acts in derogation of:

(a) any of the conditions specified in paragraph 6 herein; or

(b) the interpretations of Article IV, Sections 1(c), 2(a) or 3(a) of the IBT Constitution set forth in the June 9, 1994 Resolution;

the Government reserves all of its rights pursuant to the Consent Decree, including its right to object pursuant to paragraph 17 of the Consent Decree. In addition, the Government may seek to enforce the conditions specified in paragraph 6 herein before this Court.

8. Pursuant to paragraph 17 of the Consent Decree, and

subject to the conditions specified in paragraph 6 herein, the revocation of the four United States Area Conference charters, as effected by means of the June 9, 1994 Resolution, may occur.

Dated: New York, New York

June 16, 1994

MARY JO WHITE
United States Attorney for the
Southern District of New York
Attorney for Plaintiff

By: *Christine H. Chung*

CHRISTINE H. CHUNG (CC-7933)
Assistant United States Attorney
100 Church Street
New York, New York 10007
Tel.: (212) 385-6360

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS

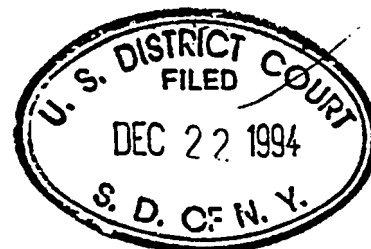
By: *Judith A. Scott*

JUDITH A. SCOTT
General Counsel
25 Louisiana Avenue
Washington, D.C. 20001
Tel.: (202) 624-6945

SO ORDERED:

James E. ...
6/22/94

Date: 6/25/94



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

- against -

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, et al.,

Defendants.

88 Civ. 4486 (DNE)

STIPULATION & ORDER

MODIFYING

PARAGRAPH 12(D)

OF THE MARCH 19, 1989

CONSENT DECREE

WHEREAS, on March 19, 1989, this Court approved a Consent Order (the "Consent Decree") that settled the claims of plaintiff the United States of America (the "Government"), against, inter alia, defendant the International Brotherhood of Teamsters (the "IBT"); and

WHEREAS, the stated purpose of the Consent Decree is to ensure that the IBT is maintained democratically by IBT members in a manner free from undue influence, see Consent Decree ("Whereas" provisions); and

WHEREAS, to further this aim, the Consent Decree requires direct rank-and-file secret ballot election of International Union officers; and

WHEREAS, Paragraph 12(D) of the Consent Decree provides for the IBT General President, Secretary-Treasurer and Vice Presidents to be elected by direct rank-and-file voting in the International Union Officer election, but for Trustees to be elected at the International Convention by delegates to the convention; and

WHEREAS, the delegates to the 1991 International

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Convention adopted an amendment to the IBT Constitution that would have required Trustees to be elected by direct rank-and-file voting, see IBT Constitution, Art. IV, § 3(a), but for the Government's objection to that amendment; and

WHEREAS, the Government's objection was based upon its determination that because Trustees are not General Executive Board members and do not perform executive functions, it was neither necessary nor desirable to have Trustees elected in the same fashion as the other International Union officers; and

WHEREAS, based upon experience gained in the 1991 IBT Election and its determination that it is feasible for the Election Officer to supervise a direct rank-and-file election for Trustees as well as the other International Union officers, the Government has withdrawn its objection to the constitutional language proposing to include Trustees in the International Union Officer election; and

WHEREAS, the Government and the IBT agree that providing for Trustees to be elected by direct rank-and-file voting as part of the International Union Officer election best serves the purposes of the Consent Decree.

NOW THEREFORE IT IS HEREBY STIPULATED AND AGREED, by, and between the undersigned, that:

1. Paragraph 12(D) (iv) of the Consent Decree is hereby modified in the following manner:

At such an International convention, after the nomination of International Union Vice Presidents and ~~election of~~ Trustees, all delegates shall then vote for nominees for the offices of IBT General President and

Secretary-Treasurer;

2. Paragraph 12(D)(v) of the Consent Decree is hereby modified in the following manner:

To qualify for the ballot for the direct rank-and-file voting for IBT General President, Secretary-Treasurer, ~~and~~ Vice President, and Trustee, candidates must receive at least five (5) percent of the delegate votes at the International convention, for the at large position, or by conference for regional positions, as the case may be;

3. Paragraph 12(D)(vii) of the Consent Decree is hereby modified in the following manner:

No less than four (4) months and no more than six (6) months after the International convention at which candidates were nominated, the IBT General President, General Secretary-Treasurer ~~and~~ Vice Presidents and Trustees shall be elected by direct rank-and-file voting by secret ballot in unionwide, one-member, one-vote elections for each at large position, and conference wide, one-member, one-vote elections for each regional position;

4. No provision of this Stipulation and Order abrogates the obligations of the Government and IBT as set forth in the Stipulation and Order Regarding March 21, 1994 Application of Defendant IBT, dated June 28, 1994.

Dated: New York, New York

December 14, 1994

MARY JO WHITE
United States Attorney for the
Southern District of New York
Attorney for Plaintiff
United States of America

By:

Christine H. Chung
CHRISTINE H. CHUNG (CC-7933)
Assistant United States Attorney
100 Church Street, 19th Floor
New York, New York 10007
Tel.: (212) 385-6360

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS

By:

Judith A. Scott
JUDITH A. SCOTT
General Counsel
25 Louisiana Avenue, N.W.
Washington, D.C. 20001
Tel.: (202) 624-6940

SO ORDERED:

David J. Earle
UNITED STATES DISTRICT JUDGE

New York, New York

Date:

Dec 21, 1994

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ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA, :
 :
Plaintiff, :
 :
- against - :
 :
INTERNATIONAL BROTHERHOOD OF :
TEAMSTERS, CHAUFFEURS, :
WAREHOUSEMEN AND HELPERS OF :
AMERICA, AFL-CIO, et al., :
 :
Defendants. :
-----X

OPINION & ORDER

88 Civ. 4486 (DNE)

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IN RE: APPLICATION TO AMEND THE
CONSENT DECREE TO PROVIDE FOR
MAIL-BALLOT VOTING IN IBT
ELECTIONS
-----X

FILED OPINION
U.S. DISTRICT COURT
175 JAN 11 P 4:01

EDELSTEIN, District Judge:

This opinion emanates from the voluntary settlement of an action commenced by plaintiff, United States of America, against defendants, the International Brotherhood of Teamsters ("the IBT") and the IBT's General Executive Board. This settlement was embodied in the voluntary consent order entered March 14, 1989 ("the Consent Decree").

Among other things, the Consent Decree provides that IBT elections shall be conducted by direct rank-and-file voting by secret ballot. Under paragraph 12(D)(viii) of the Consent Decree, "[a]ll direct rank-and-file voting by secret ballot . . . shall be by in-person ballot box voting at local unions or absentee ballot procedures where necessary."

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Pursuant to paragraph 16 of the Consent Decree, the Government has applied to this Court for a modification of paragraph 12(D)(viii). Under the Government's proposed modification, all direct rank-and-file voting at future IBT elections would be conducted "by mail ballot in accordance with Department of Labor Regulations,¹ except that the Election Officer may determine, in compelling circumstances, that delegate elections in the local unions need not be conducted by mail ballot." (Government's Proposed Order at 3.)²

The Government argues that experience gained during the 1991 IBT elections favors modifying the Consent Decree to the extent proposed by the Government. Although the Consent Decree mandates in-person voting for all IBT elections, this Court approved election rules for the 1991 IBT delegate election that provided for mail-ballot voting. See July 10, 1990 Opinion & Order, 742 F. Supp. 94 (S.D.N.Y. 1990), aff'd as modified, 931 F.2d 177 (2d Cir. 1991); Michael H. Holland, Rules for the IBT International Union Delegate and Officer Election 86-89 (August 1, 1990). In

¹ These regulations are codified at 29 C.F.R. § 452.96 et seq.

² The complete text of the Government's proposed modification reads:

All direct rank-and-file voting by secret ballot described above shall be by mail ballot in accordance with Department of Labor Regulations, except that the Election Officer may determine, in compelling circumstances, that delegate elections in the local unions need not be conducted by mail ballot.

(Government's Proposed Order at 3.)

this election, "mail balloting occurred in 264 of the 307 contested Local Union delegate and alternate delegate elections." The Cookbook: How the Election Officer Supervised the 1991 Teamster Election 4-2 to 4-3. In local union delegate elections where mail balloting was used, 33% of all eligible voters voted; in contrast, where in-person voting was used, 19% of eligible voters voted. See id. at 4-3.

Because of the success of mail-ballot voting in the 1991 delegate election, the Election Officer drafted a plan that called for mail-ballot voting in the 1991 International Union Officer election, which the Independent Administrator submitted as an application to this Court. By Order dated September 11, 1991, this Court approved this application, finding that the plan was "fully conducive to achievement of the Consent Decree's goal of fair, open, and honest IBT officer elections in which the members of the IBT may participate freely and without interference." See September 11, 1991 Order, No. 88 Civ. 4486 (S.D.N.Y. 1991). The results of this election also indicate that mail-ballot voting increased voter turnout. In local unions that had used in-person voting for the delegate election, but mail balloting for the International Union Officer election, voter participation increased from 19% to 29.8%. See Declaration of Amy Gladstein dated December 8, 1994, ¶ 4.

The Government also asserts that, apart from producing greater voter participation, in IBT elections, mail-ballot voting is superior to in-person voting for other reasons. Here, mail-

ballot voting is less expensive because it requires less administrative oversight. (Government's Memorandum at 5 (citing The Cookbook: How the Election Officer Supervised the 1991 Teamster Election 2-58 to 2-59).) Mail-ballot voting also reduces the opportunities for voter intimidation and harassment. (Government's Memorandum at 5 (citing Declaration of Amy Gladstein dated December 8, 1994, ¶¶ 2, 5).)

The IBT has largely supported the Government's application. In its motion papers, the IBT states that it "agrees with the Government's Application with respect to the 1996 election." (IBT's Memorandum at 1.) Like the Government, the IBT asserts that the results of the 1991 elections demonstrate the value of mail-ballot voting.

The Government, however, contends that the Consent Decree should be modified so that mail-ballot voting will be the standard method of conducting all future IBT elections. In contradistinction, the IBT contends that the Consent Decree should only be modified to provide for mail-ballot voting in the 1996 IBT election. Under the IBT's proposed modification, the Consent Decree would continue to provide for in-person voting for all IBT elections after 1996.³

³ The text of the IBT's proposed modification reads:

The rank-and-file voting by secret ballot in the 1996 Election shall be by mail ballot in accordance with Department of Labor Regulations, except that the Election Officer may determine, in compelling circumstances, that delegate elections in the Local Unions need not be conducted by mail ballot.

In Juan F. v. Weicker, 37 F.3d 874 (2d Cir. 1994), the Second Circuit reviewed the standard for modification of a consent decree. The Weicker court stated that "a party may obtain modification of a consent decree by establishing that there has been a significant change in circumstances, factual or legal, and that the proposed modification is suitably tailored to deal with the changed circumstances." Id. at 878 (citing Rufo v. Inmates of Suffolk County Jail, 112 S. Ct. 748, 760 (1992)).

Although district courts have substantial discretion to modify consent decrees, "[m]odification is a remedy not to be lightly awarded." Id. The Weicker court cautioned that modifications of consent decrees may "'discourage compromise for fear of adverse judicial modification.'" Id. (quoting Walker v. HUD, 912 F.2d 819, 826 (5th Cir. 1990)).

In the instant case, this Court finds that there has been a significant change in circumstances that warrants a modification of the Consent Decree. Since the Consent Decree was entered into in 1989, the circumstances have changed significantly because it now appears that mail-ballot voting--rather than in-person voting--best promotes the Consent Decree's goal of fair, democratic IBT elections. In 1989, when the parties entered into the Consent Decree, it was believed that in-person voting would best promote democratic IBT elections. Yet, as both the IBT and the Government now agree, the 1991 elections demonstrate that mail-ballot voting promotes increased voter participation, while

(IBT's Proposed Order at 3.)

reducing the opportunity for voter intimidation and harassment.

For several reasons, this Court finds that the Government's proposed modification to the Consent Decree is "suitably tailored to deal with the changed circumstances." Weicker, 37 F.3d at 878. The Government's proposed method of conducting elections has proven effective in the 1991 IBT elections. As discussed previously, the 1991 elections demonstrated that IBT members are more likely to participate in a mail-ballot election. The 1991 elections also demonstrated that in-person voting simply does not work as well as mail-ballot voting. Elections that used in-person voting produced substantially lower voter turn out, and the Election Officer found that they increased the risk that voters would be harassed or intimidated. In addition, in light of the fact that this Court has previously addressed this voting-method issue twice regarding the 1991 elections and now must address this issue again, the Government's proposed modification promotes judicial economy. In 1991, this Court approved election rules that permitted delegates to be elected by mail-ballot voting. July 10, 1990 Opinion & Order, 742 F. Supp. 94 (S.D.N.Y. 1990), aff'd as modified, 931 F.2d 177 (2d Cir. 1991); Michael H. Holland, Rules for the IBT International Union Delegate and Officer Election 86-89 (August 1, 1990). Later in 1991, this Court approved the Election Officer's plan to permit mail-ballot voting in the 1991 International Union Officer election. See September 11, 1991 Order. Currently, both parties agree that mail-ballot voting should be used in the 1996 election. Thus,

the Consent Decree's in-person voting requirement has created a recurring need to seek this Court's intervention in order to implement mail-ballot voting, and the Government's proposed modification is suitably tailored to remedy this problem.

In contrast, the IBT's proposed modification to the Consent Decree is not "suitably tailored to deal with the changed circumstances" in this case. Weicker, 37 F.3d at 878. Under the IBT's proposal, the Consent Decree would be modified so that mail-ballot voting would only be employed in the 1996 election. The IBT proposes retaining in-person voting in future IBT elections, despite the fact that both parties agree that in-person voting is inferior to mail-ballot voting. The IBT's proposal is not suitable because it mandates an inferior method of electing IBT delegates and officers in future IBT elections, absent another application to this Court. As such, the IBT's proposal raises the probability that this Court will be required needlessly to rehash the voting-method issue in the context of the IBT's next election.

In sum, the Government's proposed modification of the Consent Decree is suitably tailored to the changed circumstances in the instant case. Further, the Government's proposed modification reduces the chances that, in the future, this Court will be needlessly called upon again to review the voting method used in IBT elections. Thus, this modification recognizes the importance of limiting modifications of consent decrees in general and limiting modifications of this Consent Decree in

particular.

It should be emphasized that modification of consent decrees discourages future litigants from settling disputes because of the fear that the obligations created by a settlement may change over time. The parties should not view this Court's decision to modify the Consent Decree as a departure from the rigorous standards that govern modifications of consent decrees.

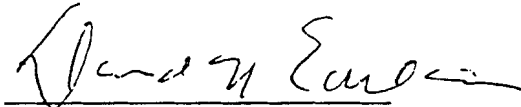
CONCLUSION

IT IS HEREBY ORDERED that paragraph 12(D)(viii) of the Consent Decree is modified to read:

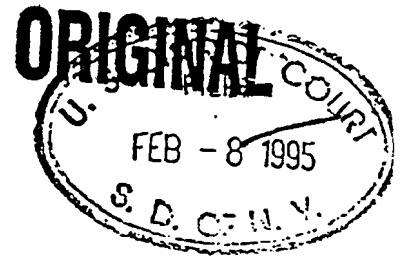
All direct rank-and-file voting by secret ballot described above shall be by mail ballot in accordance with Department of Labor Regulations, except that the Election Officer may determine, in compelling circumstances, that delegate elections in the local unions need not be conducted by mail ballot.

SO ORDERED.

DATED: New York, New York
January 11, 1995


U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

Plaintiff,

- against -

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, et al.,

Defendants.

88 Civ. 4486 (DNE)

STIPULATION & ORDER
IMPLEMENTING
PARAGRAPH 12(D) (ix)
OF THE MARCH 19, 1989
CONSENT DECREE

WHEREAS, on March 19, 1989, this Court approved a Consent Order (the "Consent Decree") that settled the claims of plaintiff the United States of America (the "Government"), against, inter alia, defendant the International Brotherhood of Teamsters (the "IBT"); and

WHEREAS, Paragraph 12 of the Consent Decree provided for the Court to appoint an Election Officer to supervise the IBT Election to be conducted in 1991 (the "1991 Election Officer"); and

WHEREAS, on January 22, 1992, the 1991 Election Officer, Michael H. Holland, certified the results of the 1991 IBT Election; and

WHEREAS, Paragraph 12(D)(ix) of the Consent Decree provided additionally that "the union defendants consent to the Election Officer, at Government expense, to supervise the 1996 IBT Elections" (the "1996 Election Officer"); and

WHEREAS, on June 23, 1993, this Court appointed Amy Gladstein to be the 1996 Election Officer;

WHEREAS, the Government and the IBT have agreed upon

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means of implementing Paragraph 12(D) (ix) of the Consent Decree insofar as it pertains to supervision of the 1996 IBT Election; and

WHEREAS, the Government and the IBT agree that implementation of Paragraph 12(D) (ix) of the Consent Decree, on the terms set forth herein, will fulfill the letter, spirit and intent of the Consent Decree; and

WHEREAS, it is the intention of the Government and the IBT that the Election Officer function in 1996 as similarly as possible to the 1991 Election Officer; and

WHEREAS, the Government and the IBT believe it necessary to agree upon the means of implementing Paragraph 12(D) (ix) of the Consent Decree prior to the 1996 IBT Election, to provide certainty to the parties to the Consent Decree, the IBT membership, and the 1996 Election Officer.

NOW THEREFORE IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, that:

1. All rights and duties conferred upon the 1991 Election Officer by paragraph 12 of the Consent Decree are hereby conferred upon the 1996 Election Officer, including but not limited to:

- a) the rights provided in sections (i) (a), (i) (b), (i) (c) and (i) (d) of Paragraph 12(C) pertaining to Access to Information;
- b) the entitlement to suitable office space provided by the IBT at IBT headquarters in

Washington, D.C., as set forth in section (iii) of Paragraph 12(C), or at a different location if approved by the 1996 Election Officer;

c) the right to distribute materials about the election in advance of the election, as set forth in Paragraph 12(D) (ix); and

d) the authority provided in Paragraph 12(G) of the Consent Decree pertaining to the Election Officer's employment of personnel and appointment of designees.

2. The duty that Paragraph 12(D) (ix) of the Consent Decree imposed upon the Independent Administrator, to "hear disputes about the conduct and/or results of elections," is hereby conferred upon an Election Appeals Master to be appointed by the Court. The Election Appeals Master shall possess all rights and powers Paragraph 12 of the Consent Decree conferred upon the Independent Administrator in connection with the Independent Administrator's election supervision functions. Those powers include those specified in paragraph 1 of this Stipulation & Order. The standard of review that the Election Appeals Master shall apply to decisions of the Election Officer shall be same standard of review applied by the Independent Administrator in the 1991 election. In reviewing decisions of the Election Appeals Master, this Court shall apply the standard of review set forth in Paragraph 16 of the Consent Decree.

3. The following rights and duties, which the Consent

Decree conferred upon the Independent Administrator in connection with the 1991 IBT Election, are hereby conferred upon the 1996 Election Officer and Election Appeals Master:

a) the authority specified in Paragraph 12(E) of the Consent Decree to distribute materials to the IBT membership regarding the activities of the Election Officer and Election Appeals Master, including reports in each issue of the union magazine distributed to all IBT members, with reasonable costs of such distribution to be borne by the IBT; and

b) the obligation imposed by Paragraph 12(F) of the Consent Decree to file reports with the Court;

c) the authority granted by Paragraph 12(I) of the Consent Decree to make applications to the Court, after giving notice to specified parties.

4. Paragraphs 13 and 16 of the Consent Decree shall apply to the 1996 Election Officer and Election Appeals Master.

5. Paragraph 12(H) of the Consent Decree shall not apply to the fees and expenses of the 1996 Election Officer or the Election Appeals Master.

6. The authority of the 1996 Election Officer and the Election Appeals Master shall terminate after the certification of the 1996 election results by the 1996 Election Officer for all IBT International Officers as provided in the Consent Decree, except

that the Election Officer and the Election Appeals Master shall each retain his or her respective authority, granted under paragraph 12(D) of the Consent Decree and under this Stipulation and Order, to resolve all disputes concerning the conduct and/or results of the elections conducted in 1996. "Certification of the 1996 election results" shall be construed to mean either the date upon which the 1996 Election Officer certifies the 1996 IBT Election results for all IBT International Officers or one month after the final balloting, whichever is shorter.

Dated: New York, New York

January 26 1995

MARY JO WHITE
United States Attorney for the
Southern District of New York
Attorney for Plaintiff
United States of America

By:

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INTERNATIONAL BROTHERHOOD OF
TEAMSTERS

By:

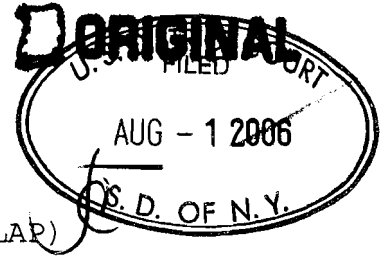
Judith A. Scott
JUDITH A. SCOTT
General Counsel
25 Louisiana Avenue, N.W.
Washington, D.C. 20001
Tel.: (202) 624-6940

SO ORDERED:

Harold Delstein
UNITED STATES DISTRICT JUDGE

Date: FEBRUARY 7, 1995

DOC # 3951



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

UNITED STATES OF AMERICA,	:	88 Civ. 4486 (LAP)
Plaintiff,	:	
- against -	:	STIPULATION & ORDER
INTERNATIONAL BROTHERHOOD OF	:	MODIFYING PARAGRAPH 12 (D)
TEAMSTERS, <u>et al.</u> ,	:	OF THE MARCH 14, 1989
Defendants.	:	<u>CONSENT DECREE</u>
	:	
-----	:	
	X	

WHEREAS, on March 14, 1989, the United States District Court for the Southern District of New York (the "Court") approved a Consent Decree (the "Consent Decree") that resolved the claims of plaintiff United States of America (the "Government") against, among others, the defendant International Brotherhood of Teamsters (the "IBT"); and

WHEREAS, Paragraph 12 (D) of the Consent Decree provides that delegates to the International Convention "shall nominate candidates for eleven (11) Regional Vice Presidents, as follows: Three (3) from the Eastern Conference, three (3) from the Central Conferences, two (2) from the southern Conference, two (2) from the Western Conference, and one (1) from the Canadian Conference" and shall further nominate candidates for "five (5) Vice Presidents to be elected at large;" and

WHEREAS, with notice to and without objection from the Government, the delegates to the 2006 International Convention adopted an amendment to Article IV, Section 1 of the IBT

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Constitution that employs a census-based system for establishing the number of Regional Vice Presidents and increases the number of Vice Presidents at large from five to seven;

WHEREAS, the Government and the IBT agree that the amendment to Article IV, Section 1 is not inconsistent with the objectives of the Consent Decree;

NOW THEREFORE IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, that:

1. Paragraph 12(D)(iii) of the Consent Decree is hereby modified in the following manner:

Delegates shall nominate candidates for ~~eleven (11) Regional Vice Presidents, as follows: Three (3) from the Eastern Conference, three (3) from the Central Conference, two (2) from the Southern Conference, two (2) from the Western Conference, and one (1) from the Canadian Conference~~ for Regional Vice Presidents from the Eastern Region, Central Region, Southern Region, Western Region, and Teamsters Canada. The number of Regional Vice Presidents shall be determined on the basis that each Region shall be entitled to at least two (2) regional Vice Presidents and one (1) additional regional Vice President for each 100,000 members, or major fraction thereof (defined as one more than fifty percent), in excess of 200,000 members. In addition, there shall be nominated candidates for ~~five (5)~~ seven (7) Vice Presidents to be elected at large. All duly nominated Vice Presidents shall stand for election conducted at local unions on the same ballot and time as the election of General President and General Secretary-Treasurer, as provided herein;

Dated: New York, New York
July 28, 2006

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York

By: Danna Drori
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Dated: Washington, D.C.
July 21, 2006

International Brotherhood
of Teamsters

By: Bradley T. Raymond
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SO ORDERED:

Loretta A. Preska
LORETTA A. PRESKA
UNITED STATES DISTRICT JUDGE

July 31, 2006