

In the Matter of
ROME ALOISE

Before the
INDEPENDENT REVIEW OFFICER

DISCIPLINARY DECISION OF THE INDEPENDENT REVIEW OFFICER

December 22, 2017

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I. INTRODUCTION

On October 24, 2017, I issued my ruling on the three charges brought against Rome Aloise (the “Charges”) by the predecessor entity of the Independent Investigations Officer (IIO). The Charges, which are detailed in my ruling, alleged that Aloise violated the Constitution of the International Brotherhood of Teamsters (IBT), the Bylaws of his local, and provisions of the Taft Hartley Act and the Labor-Management Reporting and Disclosure Act (LMRDA). In sum, I upheld the Charges and determined that Aloise brought reproach upon the IBT. I also invited the parties to submit briefing on the appropriate discipline to apply to Aloise. In addition to the parties’ submissions, I have received and considered a letter from the IBT and letters of support for Aloise from friends and IBT colleagues at various Locals and Joint Councils. Not surprisingly, the parties’ recommendations on the appropriate punishment are far apart. The IIO seeks the harshest of penalties: a permanent bar from the Union, including from holding office, employment and membership, along with the accompanying associational ban that would prohibit Aloise from associating with all IBT members and all IBT members from associating with Aloise. On the other hand, Aloise suggests a one-year suspension of his position as an International Vice President and a fine.

Neither the Final Agreement and Order (the “Final Order”), approved on February 17, 2015, in *United States v. International Brotherhood of Teamsters, et al.*, 88 Civ. 4486 (LAP), nor the Rules Governing the Authorities of the Independent Disciplinary Officers and the Conduct of Hearings (the “Rules”) provide explicit guidance on how to make a decision regarding the proper discipline for a member or officer against whom charges are upheld. Nonetheless, as a former federal judge, I find it sensible to consider the criteria provided in Section 3553(a) of Title 18, and its mandate that a court “shall impose a sentence sufficient, but not greater than necessary” to comply with the purposes of sentencing. 18 U.S.C. § 3553(a). Section 3553(a) sets forth the

relevant facts a judge must consider in making a sentencing decision. Where appropriate, I too will be guided by Section 3553(a). In particular, I will consider “the nature and circumstances of the offense and the history and characteristics of” Aloise; the need for the discipline imposed to “reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense”; the need for the punishment to deter future violations; the kinds of penalties available; and the need to avoid unwarranted disparities amongst offenders with similar characteristics and who committed similar offenses. *Id.*

II. RELEVANT CONSIDERATIONS

A. Aloise’s Background and Contributions to the IBT

Aloise joined the IBT at the age of sixteen in 1967. After graduating from college in 1973, he earned a graduate degree from the University of California, Berkeley, having put himself through night classes by working during the day as a truck driver. He first became an IBT employee in 1975. Since that time, Aloise has served as an officer at all three levels of the IBT: local, joint council, and International. At the time of the *de novo* hearing in mid-March 2017, Aloise’s leadership positions in the IBT included: (i) Secretary-Treasurer and Principal Officer of Local 853, the largest local in Northern California with a total of more than 11,000 members; (ii) President of IBT Joint Council 7, representing more than 100,000 members in Northern California and Nevada; (iii) Vice President at-large for the General Executive Board (GEB); (iv) director of the Dairy Conference; (v) director of the Food Processing Division; (vi) trustee and chairman of the investment committee for the Western Conference of Teamsters Pension fund; (vii) trustee for the Teamsters Benefit Trust; (viii) a trustee for the Voluntary Employee Benefits Fund; (ix) board member for the IBT 401(k) plan; and (x) executive vice president for the California Labor Federation, a non-Teamster labor organization. In addition, in June 2016, Aloise was elected as

an International Vice President for the Western Region, a role that he commenced in late March 2017.

Just as Aloise's many leadership positions attest to his dedication to the union's cause, so too do the details of his positive impact on the IBT from those with whom he has worked. From the comments in the letters of support submitted on Aloise's behalf, a few common themes are evident: (a) Aloise is a tireless worker, often starting his day before anyone else and ending it when others have long since left the office, regardless of what coast they are on; (b) Aloise has championed women and minorities, both in seeking to raise their profiles in union leadership and to support their work as members; and (c) his lapses, as exposed by the IIO's investigation, have not diminished his supporters' belief in his ongoing value to the labor movement.

As to the first point, Aloise's advocates uniformly praise his work ethic. According to Antonio Christian, the former Human Rights Director of the IBT, Aloise

leads by example, frankly an example that none of us were really able to meet. When he isn't flying around the country handling his many duties for the International Union or dealing with the 22 Local unions in the Joint Council, he is regularly in the office by 5:00 a.m. and often doesn't leave until after the last person leaves the building. Many members have complained that he returns their calls too early in the morning!

Similarly, Carin Zelenko, the Director of Teamsters Capital Strategies Department, writes,

With so many responsibilities throughout the union, it's hard to imagine where Rome finds the time to do this type of work. But he makes the time. Often, I call Rome on my way into work. It is 8:30 a.m. on the East Coast where I am, and 5:30 a.m. his time. Yet, when I call, he is already sitting at the gate in an airport, working in his office, or on his way to meet members at their worksite.

Sally Payne, the Associate Director of the Teamsters Training and Development Department, praises Aloise's single-minded focus on the members:

Aloise sets the example and everyone who works for him knows they must live up to his standard. And they do so willingly because they know he is an exceptional leader. . . . He doesn't play golf, he doesn't go to parties, travel for pleasure or go to games. His whole life is dedicated to Teamster members. I cannot think of

anyone else in the Union who has dedicated their entire life to the Teamsters the way he has.

Regarding the second theme -- Aloise's support for women and minorities -- Ms. Zelenko also notes Aloise's commitment to raising the stature of women in the IBT. She writes, "[i]n his work, Rome has made it a point to elevate women and recognize our contributions to the union and to the labor movement. He never misses an opportunity to publicly recognize me in my professional role, provide opportunities to highlight my accomplishments, or elevate me among my peers." Along those same lines, Bernadette Kelly, an International Representative and member of Local 210 in New York City, writes,

It was during [the 1999 East Coast Costco organizing campaign] I first saw Aloise's dedication to promoting Teamster women. Rome appointed a woman to oversee contract administration of the Costco East Coast membership and gave her a primary role in negotiations. And when we started an organizing program at Costco, Aloise recruited a woman of color from Teamsters Local Union 986 and supported her run to serve as an officer of the Teamsters National Black Caucus.

...

Throughout his Teamster career, Brother Aloise has championed women leadership. He actively recruits and elevates leaders on every single level from promoting shop stewards, to encouraging women local union officers to IBT staff. And in addition to that, he ensures that all of us work together so that women support one another in an organization that often times forgets our important contributions.

When women at the International Union lobbied for better reproductive health care, they turned to Rome. He was able to bring the issues to the General Executive Board so that women would have a meaningful voice. One of my co-workers was fortunate to benefit from Rome's work and became a mother as a direct result.

Antonio Christian echoes Kelly's sentiments in recounting his experience with Aloise,

I was the first minority business agent in the history of the Local Union [853]. It was important to Rome that our Executive Board and our leadership looked like the members we were representing, and a predominantly white, male Executive Board and staff was not in the cards for him. Shortly thereafter, we had another opening and Rome appointed the first woman in the history of the Local, Pat Sanchez, who was a warehouse worker at Safeway Stores distribution center. Pat climbed to the office of Vice President and served in that capacity until her retirement.

Others highlight Aloise's pointed dedication to improving the working conditions of women and minorities. Sally Payne states, "[Aloise] is one of the first officers to promote and hire people of color and women. He was always an outspoken advocate for the rights of the underrepresented." Catherine Cobb, President of Local 2010, writes, "[Aloise] has been outspoken and effective in support of the lowest paid, most mistreated workers, including women and people of color"

Finally, it is noteworthy that Aloise's backers still believe that he can and will provide great value to the IBT and the labor movement. For instance, Ms. Cobb closes her letter this way, "The members of Local 2010 and working families throughout California live better lives because of [Aloise's] work over the past four decades, and we need his talents and leadership now more than ever." Ms. Kelly writes, "There is an entire generation of us that continue to need his leadership and guidance." Jason Rabinowitz, an attorney and Secretary-Treasurer/Principal Officer of Local 2010, notes that, "if Rome were to be permanently removed from his positions with the Union, it would be the members that would be most harmed."¹ Joint Council No. 16's President, George Miranda, adds that "[w]ith labor under attack, the Teamsters have truly benefited from Rome's experience, and his tremendous work ethic and generosity of spirit. Workers need protection more than ever and we need leadership to save our pension funds. Rome has been the type of leader that union members need." Likewise, William Hamilton, the President of Joint Council No. 53, provides, "if I had one thing that makes Rome an indispensable leader in today's fight for working people, it's his vast knowledge of Pension reform and what it is going to take to protect working people's pensions."

¹ I am aware and have taken into consideration that Mr. Rabinowitz formerly practiced at the Beeson Tayer & Bodinea, a law firm that has been shown to be aligned with Aloise.

While nothing in the letters quoted above diminishes the disrepute that Aloise has brought upon the union, his continuing ability to benefit the union is a major factor in my consideration of the appropriate penalty.

B. The Nature and Seriousness of the Offenses

As detailed in my October 24th decision, Aloise's solicitation and receipt of the Super Bowl party admissions for IBT Executive Assistant to the General President, William C. Smith, III, through IBT employer Southern Wine and Spirits (SWS), his procurement of a job for his cousin at SWS, his negotiation of sham contracts with the GrandFund, and his involvement in the 2013 Local 601 election was reproachful and violated provisions of the IBT Constitution, Local bylaws, and other related labor-management laws. His overall conduct displayed disrespect for the basic tenets of responsible union behavior. It demeans his accomplishments and tarnishes the positions he holds. In short, Aloise failed to meet the expectations of his members and his loyal supporters.

Nonetheless, there are elements missing from Aloise's conduct that diminish – at least somewhat – the seriousness of his offenses. First, there was no discernable financial benefit to Aloise as a result of his actions; said another way, he was not motivated by greed. Granted, he obtained a job for his out-of-work cousin, Mark Covey, but it was a real job (as opposed to a no-show) for which Covey, a Teamster, was qualified. Further, Covey's job was not going to lead to any accolades for Aloise – or Covey for that matter. It was a steady job with good union benefits -- the kind of job Aloise apparently fights hard to obtain for members. Although Aloise's efforts to get the Super Bowl party admissions for William Smith may have been motivated by his desire to help a high-level IBT leader, there is no evidence that Aloise was lining up anything for himself as a result of helping Smith. Rather, he seemed to be trying to do a favor for Smith, although a misguided favor that flouted union laws and good sense. More importantly, to find that Aloise violated Section 186, I did not have to find that a quid pro quo arrangement existed between Aloise

and an IBT employer. On the evidence presented, there was no such arrangement. This does not absolve Aloise, but it does lessen the gravity of his transgressions. The same holds true for Aloise's handling of the GrandFund relationship. There is no evidence that he generated any tangible benefit from treating GrandFund with such little care -- other than pleasing its owner, Charles Bertucio, who in turn was friends with General President Hoffa, William Smith, and other senior IBT officers. Lastly, Aloise's behavior in connection with the Local 601 election was shockingly unbecoming of someone who should stand for the democratic principles that underlie the Consent Decree, which seeks to provide avenues for elevation within the union for deserving candidates. Aloise's choice to back Alvarado may reflect his desire to push for the advancement of women and minorities within the union, but his ends do not justify his means.

C. The Need for the Punishment to Deter Future Wrongdoers

Simply put, Aloise must be punished because, in his high position, he serves as an example to others in the IBT -- whether it be those in leadership or rank and file members contemplating a career in the union's governance. When he did wrong it demeaned and degraded union principles that he should have been upholding. In the future, those who contemplate seeking favors from employers in the midst of contract negotiations should think again. Similarly, those who do not zealously negotiate for and police the adherence to contract terms for the members they represent must know that they will pay a price. And those who improperly use their offices to get a relative hired or to try to tilt the balance of an election in favor of their handpicked candidates must expect strong reprimand.

To allow Aloise's misdeeds to go undisciplined because of his good deeds would send the wrong message throughout the union.

D. The Kinds of Penalties Available

The IBT Constitution provides a list for individual members and officers who are found guilty of charges that includes “reprimands, fines, suspensions, expulsions, revocations, denial to hold any office permanently or for a fixed period, or commands to do or perform, or refrain from doing or performing, specified acts.” IBT Const., Art. XIX, Sec. 10(a). At the most severe end of spectrum is a permanent bar from the union, including the permanent revocation from office, which would also result in an associational ban.

E. The Consistency of the Punishment with Previous Punishments for Similar Conduct

The last element that factors into my decision is consistency with prior disciplinary decisions for comparable conduct.² On this point, the parties have provided me with a wealth of cases to analyze, which I have. The IIO contends that precedent demands the most serious punishment. I disagree. Many of the cases on which the IIO relies involved some element of organized crime (*e.g.*, Boggia, Jackson, Mirabello), which is absent here. Others involved craven efforts at personal or familial financial enrichment, such as through the acceptance of bribes from employers, as part of quid pro quo arrangements that directly threatened members’ rights (*e.g.*, Lanza, Georgopoulos, Tripoli, Boggia). Again, there is no evidence that Aloise gained financially from his actions or that he entered into any quid pro quo deals with employers. Additionally, others were found to have obstructed and interfered with investigations by failing to attend their examinations (*e.g.*, Kapp, Hittner). Aloise, on the other hand, sat for his deposition and testified at his *de novo* hearing.

² I recognize that cases under the Consent Decree, adjudicated pursuant to the previous Independent Review Board (IRB) system, did not require consistency of penalties across like cases. *See United States v. IBT [Hogan & Passo]*, 2003 WL 21998009, at *14 (S.D.N.Y. Aug. 22, 2003) (“it is well established that sanctions given in other cases are not relevant to the [District] Court’s inquiry as to whether a particular sanction is unwarranted or without justification”). There, unlike here, the District Court was essentially sitting as an appellate court constrained to follow a limiting standard of review. *See id.* As the IRO, I am the primary (and final) arbiter of the proper discipline.

The IIO contends that a permanent bar is fitting, in part, because Aloise committed his offenses from a position of authority within the IBT. I agree that this is relevant. And I give great weight to Aloise's stature and experience in the union in my determination. Nonetheless, I am not convinced that the most severe penalty available is necessary or appropriate.

Certainly, in other cases involving high-level officials, their positions have been considered an aggravating factor in imposing permanent bars from the union. *See, e.g., United States v. IBT [Hogan & Passo]*, 2003 WL 21998009, at *13 (S.D.N.Y. Aug. 22, 2003) ("It is well within the IRB's broad discretion to conclude that Hogan and Passo's misconduct deserved a particularly severe sanction precisely because they held such high-level positions with the IBT."); *United States v. IBT [Bane]*, 2002 WL 654128, at *16 (S.D.N.Y. Apr. 18, 2002) ("Bane's relatively high-level position in the union – President of a large local union and International Representative – justifies the [permanent bar]").

Aloise's conduct, however, is meaningfully distinguishable from that in those cases.

For example, in barring Hogan and Passo from the union, the IRB found that their misuse of authority "repeatedly harmed" members, including causing the termination of innocent local officers in furtherance of their scheme to benefit a non-union labor broker and Hogan's brother. *See Hogan & Passo*, 2003 WL 21998009 at *5, *13. Further, the district court, in upholding the IRB's sanction, described Hogan and Passo's conduct as corrupt, *id.* at *13; *i.e.*, they colluded with a non-union labor broker to enter into a substandard contract and to have the broker's employees perform Teamster work for less pay and benefit fund contributions than the existing collective bargaining agreement required, which injured members. *Id.* at *6.

Aloise's conduct, on the other hand, did not involve deals to undermine ongoing union hiring or direct harm to members. For example, there was no reliable evidence that his negotiations

with SWS on behalf of Minnesota Teamsters resulted in a sub-standard contract. It was just the opposite according to Larry Yoswa, the Secretary-Treasurer of Local 792 who led the negotiations with Aloise. (See Aloise Hearing Transcript, Mar. 17, 2017, at 270-71). To be sure, in considering how Aloise directly harmed members, a Teamster may not have been afforded the opportunity to compete with Covey for a low-level position at SWS. While this is troubling and worthy of serious punishment, it does not come close to the harm caused by Hogan and Passo.

The *Bane* case is even more inapplicable. Bane, an ex-convict who had been previously banned from the union for five years, was found to have deliberately made misleading statements during his sworn IRB examination about his ties to multiple organized crime members. See *Bane*, 2002 WL 654128 at * 1. In deciding to permanently ban Bane, the IRB relied upon the fact that “Bane’s conduct struck at the core of the Consent Decree’s goal to free [the] IBT of the hideous influence of organized crime and that his non-cooperation – obstructing contacts between an influential local officer and organized crime – particularly hindered and obstructed the IRB’s work.” *Id.* at *8 (internal quotes omitted). The IRB also determined that there were no relevant mitigating factors in Bane’s favor. *Id.*

Once more, Aloise has not been found to have (or even been accused of having) had any associations with LCN members; nor has it been determined that he made misleading statements during his testimony. And as described above, there are relevant mitigating factors that weigh in favor of his having a future in the union.³

³ I am also not persuaded by IIO’s argument that Aloise’s is deserving of the same punishment as meted out in *United States v. IBT [Ligurotis]*, 814 F. Supp. 1165, 1185 (S.D.N.Y. 1993). There, Ligurotis was found to have embezzled \$77,000 from the union to meet his personal financial needs, regularly carried a loaded firearm on the local’s premises, and hired three convicted felons to work for the local.

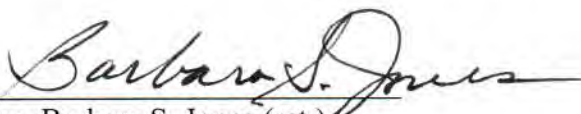
III. CONCLUSION

In light of the considerations detailed above, I hereby order the following discipline to be imposed on Aloise:

1. For two years after the date of this decision, he shall be suspended from his positions as International Vice President, President of Joint Council No. 7, and Secretary-Treasurer and Principal Officer of Local 853.

2. For two years after the date of this decision, he shall not hold any position, elected or appointed, with the IBT, Joint Council No. 7, Local 853, or any other IBT affiliate.

3. For two years after the date of this decision, no IBT entity shall pay him, nor shall he accept, any salary, gratuities, gifts, payments, allowances, fees, benefit payments or contributions or any other compensation of any kind, except that he may receive compensation that has accrued prior to the date of this decision.


Hon. Barbara S. Jones (ret.)
Independent Review Officer