

To: Members of the Local 282 Executive Board
From: Independent Investigations Officer Robert D. Luskin
Re: Proposed Charges Concerning Local 282 member Angelo Leto
Date: March 22, 2021

I. RECOMMENDATION

Pursuant to Paragraphs 30 and 31 of the Final Agreement and Order (Dkt. No. 4409-1) (“Final Order”) in *United States v. Int’l Br’d of Teamsters*, 88 Civ. 4486 (S.D.N.Y. Jan. 14, 2015), the Independent Investigations Officer (“IIO”) refers the below report to the Local 282 Executive Board with the recommendation that charges be filed against Local 282 member Angelo Leto for 1) violating the IBT Constitution, Article II and Article XIX, §§ 7(b)(1), (2) and (9) by being an inducted member of Organized Crime; and 2) violating Article XIX, Section 7(b)(1), (2) and 14(a) of the IBT Constitution by unreasonably failing to cooperate with the IIO when he willfully and without justification refused to appear for a Sworn Examination arranged pursuant to the Final Order.

The Federal Bureau of Investigation (“FBI”) has provided an affidavit from a Special Agent stating that, in its expert opinion, Mr. Leto is an inducted member of the Colombo Organized Crime Family. By his actions, it appears that, while an International Brotherhood of Teamsters (“IBT”) member, Mr. Leto violated Article II, Section 2(a) and Article XIX, Sections 7(b)(1), (2) and (9) of the IBT Constitution by being an inducted member of Organized Crime and associating with other members of Organized Crime.

Furthermore, despite receiving a timely Notice of Sworn Examination (“Notice”) and multiple follow-up telephone messages from IIO staff, Mr. Leto did not appear (either in person

or via remote videoconference) at his January 29, 2021 examination. He did not—either prior or subsequent to the examination—offer any justification for his failure to attend the examination. Indeed, to date he has made no response of any kind to the Notice.

II. JURISDICTION

Pursuant to Paragraph 32 of the Final Order, this matter is designated within the jurisdiction of the Local 282 Executive Board. The Final Order requires that within 90 days of the IIO's referral of this matter, written findings setting forth the specific action taken and the reasons for that action must be filed with the Independent Review Officer. Pursuant to Paragraph 32, copies of this report are being sent to each member of the General Executive Board and the United States Attorney's Office, Southern District of New York.

III. INVESTIGATIVE FINDINGS

A. Background of Local 282

Local 282 is located in Lake Success, N.Y. As of March 23, 2020, it had 3,778 members employed at various construction companies in the New York City area. (Ex. 1) Local 282 has a decades-long history of involvement with organized crime. (Ex. 2) In the past two, the Independent Disciplinary Officers have caused two other Local 282 members to be expelled and permanently barred on charges related to their association with organized crime and recommended similar charges against a third member.¹

¹ William Cioffi was expelled on November 8, 2019 (Ex. 5), and Joseph Marra was expelled on February 13, 2020 (Ex. 6). Pursuant to the IIO's December 22, 2020 recommendation, Local 282 referred charges of being a member of and associating with other members of organized crime to the IRO on January 8, 2021. (Ex. 7)

B. Mr. Leto's Local 282 membership

According to Local 282 records, Mr. Leto became a Local 282 member on July 17, 2011. (Ex. 3) Mr. Leto's last dues payment was on December 15, 2020, and his dues are paid for through December of 2021. (Ex. 3)

C. FBI Expert Opinion That Mr. Leto Is an Inducted Member of the Colombo Organized Crime Family

In the expert opinion of the FBI, Mr. Leto is an inducted member of the Colombo La Cosa Nostra ("LCN") Organized Crime Family. (Ex. 4 ¶ 18) ("Based upon information developed during organized crime investigations and other reliable and credible sources of information regularly relied upon by the FBI, it is the opinion of the FBI that ANGELO LETO . . . is an inducted Member of the Colombo LCN Family.") (Ex. 4 ¶ 18) ("The Colombo LCN Family is an organized criminal group headquartered in New York City.") *See also*, (Ex. 4 at ¶ 17) "Throughout its history, the Colombo LCN Family has furthered its criminal enterprise activities through murder, violence, extortion, labor union corruption, loansharking, gambling, white collar crime and narcotics trafficking." (Ex. 4 at ¶ 17)

FBI Special Agent Benjamin J. Sedam declared under penalty of perjury as follows:

In my position as a Special Agent, I became aware through multiple source reports that LETO has been an inducted Member of the Colombo La Cosa Nostra Family since at least the 1990's. According to source reporting from that time period, ANGELO LETO was ranked as a soldier in the Colombo Family assigned to Frank Melia's crew. LETO was later reassigned to other crews including that of Paul Bevacqua, Ralph Lombardo and Vic Orena Jr. Although he was never charged, LETO was rumored and/or suspected to be involved in a wide variety of criminal activity during the late 1980's and continuing into the 1990's.

(Ex. 4 at ¶ 19)

FBI Special Agent Benjamin J. Sedam further declared under penalty of perjury:

According to source reporting from 2010, the Acting Boss of the Colombo Family, Andrew Russo, expressed an interest in having LETO "come in" in part because

LETO resided close to Russo and could drive Russo around. The confidential source providing the information believed that LETO may not want anything to do with the Colombo Family because LETO felt that Vic Orena never did anything for him. No additional information was provided on the topic; however, the reporting in and of itself indicates that; as recent as 2010, LETO was in good standing with the Colombo Family.

(Ex. 4 at ¶ 20) ²

D. Mr. Leto's Failure to Cooperate with the IIO

On January 15, 2021, the IIO sent Mr. Leto a notice of sworn examination for January 29, 2021. (Ex. 8) The notice was delivered to Mr. Leto's residence in Glen Cove NY on January 18, 2021 at 8:20 a.m. (Ex. 9) The notice informed Mr. Leto that he had the option to appear either in person or via remote videoconference. (Ex. 8) The notice advised that if he elected to appear remotely, he was required to inform the IIO of that decision no later than January 26, 2021. Mr. Leto never responded. IIO staff made multiple attempts to reach Mr. Leto at the phone number listed on his dues records.³ (Ex. 3) The staff left messages on January 26, and 27, 2021. The staff left both office and cell phone numbers as return points of contact; Mr. Leto never replied.⁴

On Friday January 29 at 10 a.m. (the date and time identified on the Notification of Sworn Examination) IIO Senior Counsel Danial Healy, Esq., and Investigator Pugh were present at Bracewell, LLP; 1251 Ave. of the Americas, 49th Floor, New York, NY (the location identified on the Notification of Sworn Examination). Mr. Healey and Pugh waited for over one hour. Mr. Leto failed to appear. He also failed to make any contact—either personally or through a representative—with the IIO or his staff to request a rescheduling of the Sworn Examination.

² According to FBI Special Agent Sedam's declaration: "The current Boss of the Colombo Family is believed to be Andrew 'Mush' Russo." (Ex. 4 at ¶ 17)

³ The phone number was confirmed by Local 282's Principal Officer as having been used to contact Leto "within the last month."

⁴ As of March 22, 2021, the IIO has received no communication from Leto.

Notwithstanding Mr. Leto's failure to appear, the Examination was convened, and Mr. Leto's absence was noted on the record. (Ex. 10)

IV. ANALYSIS

A. Standard of Proof

The standard of proof to establish the charge against Mr. Leto is a preponderance of evidence. Rules Governing the Authorities of Independent Disciplinary Officers and the Conduct of Hearings, Section C ("The purpose of the hearing shall be to determine whether the proposed findings, charges, or recommendations regarding discipline or trusteeship found in the Independent Investigations Officer's Investigative Report are supported by a preponderance of reliable evidence"); *United States IBT [Simpson]*, 931 F. Supp. 1074, 1089 (S.D.N.Y. 1996), *aff'd*, 120 F. 3d 341 (2d Cir. 1997); IBT Constitution, Art. XIX, Sec. 1(e).

B. Mr. Leto's being an inducted member of the Colombo LCN Crime Family

By being an inducted member of the Colombo LCN crime family, Mr. Leto brought reproach upon the IBT in violation of Article II, Section 2(a) and Article XIX, Section 7(b) (2) of the IBT Constitution. Pursuant to Article XIX, Section 7(b)(2) of the IBT Constitution, charges may be preferred against a member for violation of the "oath of loyalty to the Local Union and the International Union." It is well settled that LCN membership violates the IBT membership oath and Article II, Section 2(a) of the IBT Constitution, which provides that members must conduct themselves "in such a manner as not to bring reproach upon the Union." *See, e.g., Investigations Officer v. Senese, et al.*, Independent Administrator Decision at 3-5, 26, *aff'd*, 745 F. Supp. 908 (S.D.N.Y.) *aff'd*, *United States v. IBT*, 941 F.2d 1292 (2d Cir. 1991), *cert. denied*, 502 U.S. 1091 (1992); *In Re: Vincent Federico*, July 22, 2010 IRB Dec. at 7. In addition, Article XIX, Section 7 (b) (9) of the IBT Constitution is necessarily violated by an IBT member who is

an Organized Crime member or who “knowingly associate[s] (as that term has been defined in prior decisions on disciplinary charges under this Article) with any member or associate of any organized crime family or any other criminal group.” *Id.* at 7.

Reliable hearsay evidence supporting the FBI’s expert opinion (Ex. 4), is adequate to support the factual finding of long-time LCN membership and association. *See, e.g., United States v. IBT [Mireles and Roa]*, 315 F. 23d 97, 101 (2d Cir. 2002) (collecting cases). The FBI’s sworn testimony of Organized Crime association is further corroborated through popular press reports identifying Mr. Leto as a member of the Colombo family since at least May 1991. (Ex. 11 at 8)

V. PROPOSED CHARGES

Based upon the above report, it is recommended that Michael Leto be charged as follows:

Charge One

While an IBT member, you brought reproach upon the IBT and violated your membership oath in violation of IBT Constitution Article II, Section 2(a) and Article XIX, Section 7(b)(1), (2) and (9), *to wit*:

As detailed in the above report, while a member of Local 282, you were an inducted member of the Colombo Organized Crime family and associated with members of Organized Crime.

Charge Two

While a member of Local 282 and the IBT, you brought reproach upon the IBT in violation of Article XIX, Section 14(a) of the IBT Constitution by obstructing, interfering and unreasonably

failing to cooperate with the Independent Investigations Officer as set forth in the Final Agreement and Order, to wit:

On January 29, 2021, you willfully and without justification refused to appear for a Sworn Examination which was arranged pursuant to the Final Agreement and Order and Rules Governing the Authorities of Independent Disciplinary Officers and the Conduct of Hearings.