

To: James P. Hoffa, IBT General President

From: Joseph E. diGenova, Independent Investigations Officer

Re: Proposed Charges Concerning Former Local 831 Member Anthony Castelle

Date: September 8, 2017

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## **I. RECOMMENDATION**

Pursuant to Paragraphs 30 and 31 of the Final Agreement and Order, the Independent Investigations Officer (“IIO”) refers the below report to the IBT General President with the recommendation that charges be filed against former Local 831 member Anthony Castelle (“A. Castelle”) for violating the IBT Constitution, Article II and Article XIX, §§ 7(b)(1), (2) and (9) and § (14)(a) by being a member of Organized Crime, and by unreasonably failing to cooperate with the Independent Investigations Officer. The Federal Bureau of Investigation (“FBI”) has provided an affidavit from a Special Agent stating that in its expert opinion A. Castelle is a member of the Luchese Organized Crime Family.

By his actions, it appears that, while an International Brotherhood of Teamsters (“IBT”) member, A. Castelle violated Article II, Section 2(a) and Article XIX, Sections 7(b)(1), (2) and (9) of the IBT Constitution by being a member of Organized Crime and associating with other members of Organized Crime. It is further recommended that A. Castelle be charged for violating the IBT Constitution, Art. XIX Sections 7(b) 1, 2 and Section 14(a), by unreasonably failing to cooperate with the IIO by refusing to answer questions at his sworn examination. Among the matters the IIO intended to question Castelle about his associations with known members and associates of Organized Crime and whether he was a member of the Luchese Organized Crime

family. It appears that while an IBT member Castelle brought reproach upon the IBT and violated Article II, Section 2(a) and Article XIX, Sections 7(b) (1) and (2), and Section 14(a) of the IBT Constitution by obstructing, interfering and unreasonably failing to cooperate with the duties of the IIO as set forth in the Final Agreement and Order.

## **II. JURISDICTION**

Pursuant to Paragraph 32 of the Final Agreement and Order in United States v. International Brotherhood of Teamsters, 88 Civ. 4486 (S.D.N.Y.) this matter is designated within the original jurisdiction of the General President. The 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.

A. Castelle resigned from IBT membership on August 31, 2017. (Ex. 28) Article XIX, Section 1 (g) of the IBT Constitution provides that former members may be held responsible for their actions while members. All the conduct for which it is proposed A. Castelle be charged occurred while he was an IBT member.

## **III. INVESTIGATIVE FINDINGS**

### **A. Anthony Castelle's Local 831 Membership**

Local 831 represents approximately 6,400 members of the Uniformed Sanitationmen's Association, who are Civil Service employees for the City of New York. (Ex. 3) A. Castelle became a Local 831 member in 1997. (Ex. 1 at 4-5) On August 31, 2017, A. Castelle withdrew from membership in Local 831. (Ex. 28)

## **B. Background**

In an IRB sworn examination on March 11, 2011, A. Castelle stated that he was a member of Local 831 since 1997. (Ex. 1 at 5) He was employed at the New York City Department of Sanitation since 1997. (Ex. 1 at 4-5). In 2011, A. Castelle testified that he had been the co-owner of Coney Island Container (“Coney Island”), a private carting company located in Staten Island, for seven or eight years. (Ex 1 at 16)<sup>1</sup> In addition, A. Castelle acknowledged that his brother John Castelle (“J. Castelle”), also known as John Castellucci, had been a dispatcher at a company known as Absolute Trucking, located at the same location as Coney Island Container. (Ex 1 at 21-22, 25) The FBI has identified his brother J. Castelle as a member of the Luchese La Cosa Nostra (“LCN”) Family. (Ex. 13) In 2010, the IRB permanently barred J. Castelle who was a member of IBT Local 282, after finding after a hearing that J. Castelle was a member of the Luchese Organized Crime Family and that he failed to cooperate with the IRB investigation. (Ex. 5). A. Castelle’s brothers, J. Castelle and Eugene Castelle (“E. Castelle”) were also co-defendants in a federal racketeering case against the “Bensonhurst Crew” of the Luchese Organized Crime family. They were convicted or violating the Racketeer Influenced and Corrupt Organizations Act (“R.I.C.O.”), 18 §§1962(c) and 1963. They were sentenced to serve 41 months and 88 months, respectively. (Ex. 9) The FBI has stated that E. Castelle is also a member of the Luchese LCN Family<sup>2</sup>. (Ex. 7)

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<sup>1</sup>According to Castelle, his partner at Coney Island Container was Jerry DeRosa, a former member of IBT Local 813. (Ex. 1 at 16-17, 19-20) Castelle further stated that he had also owned a BAV Trucking, which he described as a dump truck company that no longer existed. (Ex 1 at 16-18).

<sup>2</sup> On May 24, 2017, the U.S. Attorney’s Office for the Southern District of New York filed an indictment that charged A.Castelle’s brother John Castellucci, and the entire administration of the Luchese Organized Crime family, its Street Boss, Underboss, Consigliere, four Captains, five Soldiers and seven associates, including Matthew Madonna, Steven Crea, Sr., Joseph DiNapoli, Steven Crea, Jr., Dominic Truscello, Tindaro Corso, Joseph Venice, James Maffucci, Joseph Datello, Paul Cassano, Christopher Londonio, Terrence Caldwell, Vincent Bruno, Brian Vaughan, Carmine Garcia, Richard O’Connor, Robert Camilli and John Incatasciato, along with other members and associates of La Cosa Nostra, with a wide variety of crimes in connection with their association with the mafia, including murder, attempted murder, assault, robbery, extortion, gambling, narcotics trafficking, witness tampering, fraud, money laundering and trafficking in contraband cigarettes. That case remains pending. (Ex. 15)

On June 5, 2012, the New York City Business Integrity Commission (“BIC”) after a contested proceeding denied Anthony Castelle’s company, Coney Island Container, a registration renewal for private sanitation removal based upon several reasons. BIC denied Coney Island Container’s application because of Castelle’s failure to disclose his “lifetime of knowing associations with organized crime members”. (Ex. 8 at 1-2, 5) The evidence of A. Castelle’s association with Organized Crime figures BIC considered in making that determination included admissions he made about contacts he had with individuals publically identified as members of Organized Crime families in New York. (Ex. 8 at 4-6, and footnotes 2-10) For example, BIC considered that at his IRB deposition in 2011, A. Castelle testified that he had been introduced to Joseph “Joey Flowers” Tangorra, a former Luchese caporegime, one of his brothers’ friends. (Ex. 8 at 6; Ex. 1 at 28) In 2000, Tangorra was the lead defendant in the same Racketeering prosecution that resulted in the convictions and incarcerations of J. Castelle and E. Castelle. Tangorra was convicted of violating 18 U.S.C. §§ 1962(c), 1963 and 3551 and was sentenced to a prison term of 192 months. (Ex. 9 at 31) In another example, of evidence of his contact with Organized Crime members, BIC found that A. Castelle had written letters to Joel Cacace while Cacace was imprisoned. (Ex. 8 at 6; Ex. 1 at 55-56). Joel Cacace, a/k/a “Joe Waverly”, was identified in published news reports as the former Acting Boss of the Colombo Organized Crime Family, who is currently service a 20-year sentence for his role in the murder of George Aronwald, the father of a former Federal prosecutor, William Aronwald. (Ex. 10).

**C. FBI Expert Opinion That A. Castelle Was a Member of the Luchese Organized Crime Family**

In the expert opinion of the FBI, A. Castelle is a member of the Luchese Organized Crime Family. In that family, he is a member of the crew of Luchese Capo Joseph DeSena. (Ex. 4 at 5)

The Luchese Crime Family is an Organized Crime family operating in the New York area. (Ex. 4 at 4) The agency's expert opinion is based on, among other things, statements from three confidential sources who had previously proven to be reliable. These sources confirmed to the FBI that Castelle is a Luchese family member and a member of DeSena's crew. (Ex. 4 at 5) Besides the interlocking statements, additional evidence corroborating the sources is that Castelle had been observed repeatedly in the company of Luchese Crime Family members at events. (Ex. 4 at 5) United States v. IBT [Cimino], 964 F.2d 1308, 1312-1313 (2d Cir. 1991) (statements of separate confidential informants in aggregate are reliable basis on which to conclude IBT member associated with members of Organized Crime.); United States v. IBT [Adelstein], 998 F.2d 120, 124-125 (2d Cir., 1993) On March 9, 2014, Castelle was observed at the wake of Salvatore Loduca, son of Luchese Capo Paola Loduca. Members of the Luchese crime family were present. (Ex. 4 at 5) Again, on February 27, 2015, Castelle was observed at the wake of Carmela Manucso (nee Deluca), the daughter of Luchese Capo Richard Deluca. Members of the Luchese crime family were present. (Ex. 4 at 5) In addition, Castelle was also observed at the wake of Angelo Defendis, whom the FBI identified as a Luchese soldier, on May 29, 2014. Members of the Luchese Organized Crime family were present. (Ex. 4 at 5) According to the FBI, surveillance reports from those wakes reveal that other members and associates of La Cosa Nostra, known to the FBI, were also present, including, multiple Luchese family members. These included Luchese Street Boss Matthew Madonna, Luchese Underboss Steven Crea, Luchese Consigliere Joseph DiNapoli, Luchese Capo Joseph Desena, Luchese Capo Dominic Truscello and Luchese Soldier John Cerella, among others. (Ex. 4 at 5)

The expert opinion of the FBI is also corroborated by another example of A. Castelle's presence in an Organized Crime setting. He was at a high-ranking Organized Crime member's

daughter's wedding. (Ex. 1 at 68-69) Louis Daidone was identified in published news reports as an acting Boss of the Luchese Organized Crime Family. (Ex. 12) In 2004, Daidone was convicted and sentenced to life imprisonment for his role in the murders of two persons suspected by Luchese members and leaders to be informants for the government. United States v. Daidone, 471 F.3d 371, 373 (2d Cir., 2005) Castelle attended with his brother E. Castelle, the wedding of Daidone's daughter, Lori, who married John Micali, who was also identified in published news reports as an associate of the Gambino Organized Crime Family. (Ex. 1 at 68-69; Ex. 12)

The expert opinion of the FBI is further corroborated by the 2012 decision of the New York City Business Integrity Commission ("BIC") after a contested proceeding, to deny the registration application of Coney Island Container, Inc., A. Castelle's company, to operate a trade waste business. (Ex. 8 at 10) Castelle, who is also a N.Y.C. Sanitation employee, was the principal of Coney Island Container, Inc. (Ex. 8 at 1) The BIC found, among other things, that Castelle had a lifetime association with Organized Crime members. (Ex. 8 at 6, 9-10) The failure to disclose as required these associations in Coney Island's application was one of the reasons for the denial of its license (Ex. 8 at 9-10) Among those it found Castelle associated with were the boss of the Luchese family, Steven Crea, that family's former caporegime Joseph Tangorra and other Luchese family members. (Ex. 8 at 5-6) The breadth of A. Castille's associations that BIC found he had with identified members of New York Organized Crime Families, corroborated the FBI's expert opinion that Castelle was an Organized Crime member.

In addition, Castelle had repeated convictions for criminal possession of guns. (Ex. 7) These corroborated his involvement in a criminal enterprise. In his initial application to BIC, A. Castelle disclosed a 1994 conviction for an "A" misdemeanor weapons possession offense. (Ex. 8 at 4) In 2011, A. Castelle was convicted of Criminal Possession of a Weapon in the Third

Degree, a class “D” Felony under N.Y. Penal Law § 265.02 (1). (Ex. 8 at 5) He was in possession of a handgun, two shotguns and two rifles.<sup>3</sup> (Ex. 8 at 5; Ex. 13) All were unregistered. (Ex. 8 at 5) As a NYC Sanitationman, A. Castelle was not in an occupation associated with firearms. However, in light of his association with Organized Crime members, the nature of his repeated convictions for gun charges and the number of guns, supports the inference that Castelle was engaged in criminal activity. See, United States v. Weiner, 534 F.2d 15, 18 (2d Cir.) cert. denied, 429 U.S. 820 (1979) (evidence that weapons are “tools of the trade” admissible) That further corroborates the FBI’s expert conclusion that he was a member of Organized Crime.<sup>4</sup>

In addition, as detailed below, Castelle’s refusal to give a sworn statement to answer questions about his contact with members of Organized Crime and his own membership corroborates his membership. E.g., Salinas v. Texas, 133 S. Ct. 2174 (2013)

#### **D. Castelle’s Unreasonable Failure to Appear**

On June 1, 2017, the IIO sent A. Castelle a notice of sworn examination scheduling his sworn examination for June 14, 2017 in New York. (Ex. 16) This notice was delivered on June 2, 2017. (Ex. 17) On June 7, 2017, at the request of A. Castelle’s then attorney, Lance Lazzaro, the IIO postponed A. Castelle’s sworn examination until June 21, 2017. (Ex. 18) On June 19, 2017, a newly retained attorney for A. Castelle, Chris Cardillo, telephoned the IIO’s office and requested a second adjournment of the sworn examination until July 18, 2017 at 10:00 AM. The IIO granted the request, and his staff confirmed it in an email exchange with Cardillo. (Ex. 19)

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<sup>3</sup> At the time of his arrest, A. Castelle was also found to be in possession of two blackjacks and a switchblade. (Ex. 11)

<sup>4</sup> The BIC gave the license applicants the opportunity to contest the allegations. The company, which Castelle had an ownership interest in, did not submit any affidavit from Castelle that denied the allegations. It submitted an affidavit from the co-owner. (Ex. 8 at 1)

On July 18, 2017, at 10:00 A.M., A. Castelle failed to appear for the scheduled sworn examination. (Ex. 20) On July 18, 2017 at 12:14 P.M., A. Castelle's attorney sent a faxed letter to the IIO's office that stated that A. Castelle had been too ill to appear for his sworn examination that day. (Ex. 20)

On July 18, 2017, A. Castelle's attorney sent an e-mail to the IIO's office asking that he be contacted by telephone the following day. (Ex. 21) On July 19, 2017, a voicemail message was left on A. Castelle's attorney's voicemail. (Ex. 22) No return call was received by the IIO. On July 20, 2017, the IIO notified A. Castelle's attorney that the sworn examination was to be completed no later than August 4, 2017. (Ex. 22) On July 25, 2017, by return email, A. Castelle's attorney confirmed the new date of August 2, 2017. (Ex. 23) On August 2, 2017, A. Cardillo and his attorney appeared for the sworn examination, which began at 10:02 AM. (Ex. 24) After five minutes, A. Castelle abruptly ended the examination by saying, "I thought about it. I am not going to answer one question right now from this point forward, not one...[Y]ouse are here to hurt me. And you know what? I'm not going to answer no questions no more." (Ex. 24 at 11)

On August 3, 2017, A. Castelle's attorney sent an email to the IIO's office, in which, *inter alia*, he offered to allow his client to testify. Without accepting his characterization of the previous day at which the twice postponed examination was aborted by Castelle, on August 4, 2017, the IIO's staff gave A. Castelle's attorney ten days to accept its offer to have A. Castelle testify within the next 30 days. (Ex. 25)

On August 15, 2017, an attorney, Roger Greenberg, the third attorney on the matter, called to inform the IIO that attorney Cardillo no longer represented A. Castelle and that he did. Greenberg had previously represented Castelle in his 2011 sworn examination. Greenberg represented A. Castelle would submit to a sworn examination. He was told the subject of the



examination was to question Castelle about his associations with individuals in addition to his brothers who had been identified as members and associates of Organized Crime. He was told Castelle's sworn examination needed to be completed by the end of the first week of September. Greenberg requested a few days to respond with a date. As of August 29, 2017, Mr. Greenberg had not provided any. On August 30, 2017, the IIO's office placed a call to Greenberg, and left a voicemail message requesting the exam date or, if he no longer represented Castelle that he inform the IIO's office. There has been no response to that message. (Ex. 26) On August 31, Castelle resigned from the IBT. (Ex. 28)

#### **IV. ANALYSIS**

##### **A. Standard of Proof**

The standard of proof to establish the charge against Castelle 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 (2<sup>nd</sup> Cir. 1997); IBT Constitution, Art. XIX, Sec. 1(e).

##### **B. Castelle's Membership in the Luchese LCN Crime Family**

By being a member of the Luchese LCN crime family, Castelle 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 (2<sup>nd</sup> 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 and for “knowingly associating (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, such as that from the three confidential informants whose information had proven to be reliable in the past, is adequate to support the factual finding of membership. The interlocking nature of the three witnesses’ statements the FBI relied on for its expert opinion concerning Castelle’s membership satisfied the reliability standard. United States v. IBT [Cimino], 964 F.2d 1308, 1312-1313 (2d Cir. 1991), (separate interlocking statements hearsay from three different witnesses established a Teamster officer’s association with members of Organized Crime). The conclusion of Organized Crime membership is further corroborated thorough the observations of Castelle at events in the company of Luchese family members and his admissions of contact with Luchese family members. (Ex. 1 at 27-28, 31-33, 54-74; Ex. 4) It is also corroborated by the nature of his prior criminal convictions and his conduct in dodging his sworn examination to answer questions about it. It is further

corroborated through Castelle's strident efforts to avoid his obligation to provide a sworn statement to the IIO.

### **C. Unreasonable Failure To Cooperate With The IIO**

In addition, the court-approved Rules Governing the Authorities of the Independent Disciplinary Officers and the Conduct of Hearings empower the IIO,

to take and require sworn statements or sworn in-person examinations of any officer, member, employee, representative, or agent of the IBT, provided that the Independent Disciplinary Officers have given the person to be examined at least ten (10) days advance notice in writing and also provided that the person to be examined has the right to be represented by an IBT member or legal counsel of the person's choosing during the course of said examination. Failure to appear for a duly-noticed in-person examination shall be deemed a failure to cooperate fully with the Independent Disciplinary Officers.

(IIO Rules, Paragraph B (2) (b))(Ex. 27) On June 18, 2017, and August 2, 2017, the dates of his scheduled sworn examinations, A. Castelle was an IBT member. (Ex. 7) Despite at his request being given multiple and opportunities to do so, Castelle has repeatedly ignored his obligation to answer questions at his scheduled sworn examinations. He intentionally and constructively failed to appear. (Ex. 24) His failure to reschedule the examination he refused to answer questions at after substantial adjournments at his request further evidences his unreasonable failure to cooperate.

While a member of Local 831, A. Castelle unreasonably failed to answer questions and appear at his properly noticed IIO sworn examinations on July 18, 2017 and August 2, 2017. (Exs. 16-26) Information was sought about his associations with and membership in an Organized Crime family. His failure to appear, as shown from all his conduct, was unreasonable.

Accordingly, in his failure to appear and answer questions A. Castelle brought reproach upon the IBT and unreasonably failed to cooperate with the IIO in violation of the IBT Constitution.

**V. Proposed Charges**

Based upon the above report, it is recommended that Anthony Castelle 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 831, you were a member of the Luchese Organized Crime family, and associated with members of Organized Crime.

**Charge Two**

While a member of Local 831 and the IBT, you brought reproach upon the IBT in violation of Article II, Section 2(a) and violated Article XIX, Sections 7(b) (1) and (2) and 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:

As described above, while a member of the IBT, on June 18, 2017, August 2, 2017 and to date, you unreasonably failed to cooperate with the Independent Disciplinary Officer pursuant to the Final Agreement and Order and Rules Governing the Authorities of Independent Disciplinary Officers and the Conduct of Hearings.