

To: Members of the Local 282 Executive Board
From: Joseph E. diGenova, Independent Investigations Officer
Re: Proposed Charges Concerning Local 282 member Joseph Marra
Date: December 9, 2019

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 a charge be filed against Local 282 member Joseph Marra (“Marra”) for violating the IBT Constitution, Article II and Article XIX, §§ 7(b)(1), (2) and (9) by being a long-time associate of Organized Crime. The Federal Bureau of Investigation (“FBI”) has provided an affidavit from a Special Agent stating that, in its expert opinion, Marra is a long-time associate of the Colombo Organized Crime Family.

By his actions, it appears that, while an International Brotherhood of Teamsters (“IBT”) member, Marra violated Article II, Section 2(a) and Article XIX, Sections 7(b)(1), (2) and (9) of the IBT Constitution by being a long-time associate of Organized Crime and associating with other members of Organized Crime.

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 29, 2019, it had 3,789 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).¹ In the past 16 months, 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.²

B. Joseph Marra's Local 282 membership

According to Local 282 records, Marra became a Local 282 member on May 1, 2014.³ (Ex. 6). Marra's last dues payment was on November 14, 2019, and his dues are paid for through November of 2019. (Ex. 6). Marra is an employee of Highway Safety Protection Corp ("HSP") HSP is signatory to a collective bargaining agreement with Local 282. (Ex. 8)

On September 26, 2019, the New York City Business Integrity Commission ("BIC") notified the owner of Highway Safety Protection Corp. ("HSP"), in connection with HSP's application for its license renewal with the BIC, that "Joseph Marra has been publicly identified as an associate of organized crime. As such, your continued employment of Mr. Marra could have a result inimical to the purposes of Local Law 42 of 1996." (Ex. 9). The letter offered HSP

¹ According to evidence presented at his 1992 trial, John Gotti, then the head of the Gambino Family, received more than \$1 million a year in racketeering proceeds from Local 282. (Ex. 3).

² Steven Murray was expelled on August 2, 2018 (Ex. 4), and William Cioffi was expelled on November 8, 2019. (Ex. 5).

³ Federal Bureau of Prisons records indicate that Marra was released from his most recent incarceration on May 21, 2013. (Ex. 7).

an opportunity to demonstrate to BIC that Marra's continued employment at HSP should not have a detrimental effect upon any future license applications. (Ex. 9). As of December 4, 2019, according to BIC, Marra is still employed at HSP, and HSP's BIC renewal is still pending.

C. FBI Expert Opinion That Marra Is a Long-time Associate of the Colombo Organized Crime Family

In the expert opinion of the FBI, Marra is a long-time associate of the Colombo La Cosa Nostra ("LCN") Organized Crime Family. (Ex. 10 at ¶ 18) ("[I]t is the opinion of the FBI that JOSEPH MARRA . . . has long served as an Associate in the Colombo LCN Family.") The Colombo LCN Family is an organized criminal group headquartered in New York City. 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. 10 at ¶ 17). The agency's expert opinion is based on, among other things, the fact that Marra is the subject of a current FBI investigation. (Ex. 10 at ¶ 19).

The FBI's case agent in that investigation has declared under penalty of perjury "As part of that investigation, MARRA was surveilled speaking with two members of the Colombo La Cosa Nostra Family." (Ex. 10 at ¶ 19).

Marra was recently charged with attempt and conspiracy to commit mail fraud and wire fraud in United States District Court for the Eastern District of New York.⁴ (Ex. 11). Among his codefendants charged with racketeering in that indictment are Joseph Amato, an alleged captain in the Colombo organized crime family of La Cosa Nostra ("the Colombo family"); Daniel Capaldo and Thomas Scorcio, alleged Colombo family members; and Joseph Amato, Jr.

⁴ *United States v. Marra*, Case No. 1:19-cr-00442-ILG-9, Superseding Indictment, Dkt. No. 18 (E.D.N.Y. Oct. 2, 2019).

and Anthony Silvestro, alleged Colombo family associates. An additional alleged Colombo family member, Vincent Scura, was also indicted. (Ex. 12). As part of that investigation, Marra was under surveillance when he was observed speaking and meeting with two members of the Colombo La Cosa Nostra Family. In addition, the investigation has revealed that Marra continues to operate a loan-sharking business in which he lent out thousands of dollars at exorbitant rates of interest. (Ex. 10)

In his position as an FBI Special Agent, the expert became aware through multiple FBI Squad C-5 confidential sources that Marra is a long-time associate of the Colombo La Cosa Nostra Family. According to the statements of a member of the Colombo La Cosa Nostra Family that were intercepted during two consensual recordings, Marra was being considered for membership into the Colombo La Cosa Nostra Family in 2010. (Ex. 10 at ¶ 19).

In addition, Marra has previous criminal convictions, which corroborate his involvement in a criminal enterprise. Marra was arrested in 1995 for racketeering conspiracy (including murder conspiracy as a racketeering act) and conspiracy to defraud the United States. He pleaded guilty to both crimes and was sentenced to 228 months incarceration. Separately, in 2011, Marra pled guilty to conspiring to use extortionate means to collect an extension of credit and was subsequently sentenced to 24 months' incarceration. (Ex. 10). These convictions support the FBI's expert opinion that Marra was a long-time associate of Organized Crime.

In addition, the Business Integrity Commission Chief Investigator, Gerald McNally, sent an inquiry to the NYPD Criminal Enterprise Investigation & Analysis ("I&A") Section requesting information about Marra. The I&A Section responded: "Positive results- As per I&A files the subject is a Colombo associate of Capo Joseph Amato". (Ex. 13).

D. Marra's phone call with a Colombo Soldier

On October 3, 2019 the U.S. Department of Justice filed a motion to deny bail with respect to Marra's codefendants.⁵ (Ex. 14). In the motion, the Government describes a phone call between Marra and Colombo Soldier Thomas Scordia:

In a telephone call with Joseph Marra on April 1, 2019 (TS4 #1163), Scordia made a comment about an individual who had "got signed up" and "got his union card." Based on the investigating agents' training, experience and knowledge of this investigation, there is probable cause to believe that this comment refers to the individual's induction as a member of an organized crime family. Thereafter, Marra said, "Yeah, they were telling me, uh, sometimes, ya know, once you get that union card, everything behind ya gotta go," and Scordia answered, "Yeah, I know. I heard that too, but I pursued it and it worked out fine," which suggests that Scordia had also received a "union card," i.e., he had been inducted.

(Ex. 14). This intercepted phone call demonstrates the willingness of a known Colombo soldier (*see* Ex. 11 at ¶ 13) to openly discuss LCN matters with Marra.

E. Marra's sworn examination

On November 7, 2019, the IIO sent Marra a notice of sworn examination scheduling his sworn examination for November 25, 2019 in New York. (Ex. 15). This notice was delivered on November 11, 2019. (Ex. 16). On November 14, 2019, Marra's attorney, Joseph Mure, asked for more time to review discovery materials he had received. Mure stated that he would call on November 19, 2019, with his decision whether he would be asking for postponement of the sworn examination. He did not call on November 19, 2019. The IIO contacted Mure's office and left a message on November 20, 2019, but received no return call. On November 21, the IIO reached Mure's office and stated that the IIO intended to proceed with the scheduled sworn examination on November 25, 2019.

⁵ Bail was set for Marra at \$1,000,000.

On Sunday, November 24, 2019, at 3:32 p.m., another attorney, Christopher Errante, Esq., notified the IIO office via email that he had been retained by Marra on Friday night and that he would be unable to attend the sworn examination. Marra appeared for the sworn examination the next day without his attorney; however, because Marra was a represented party, the sworn examination did not proceed.

IV. ANALYSIS

F. Standard of Proof

The standard of proof to establish the charge against Marra 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).

G. Marra’s Long-time associateship in the Colombo LCN Crime Family

By being a long-time associate of the Colombo LCN crime family, Marra 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 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 (Ex. 10), such as that from the intercepted phone calls (Ex. 14), is adequate to support the factual finding of long-time LCN association. *See, e.g., United States v. IBT [Mireles and Roa]*, 315 F. 23d 97, 101 (2d Cir. 2002) (collecting cases). The conclusion of Organized Crime association is further corroborated through the observations of Marra in the company of Colombo family members. It is also corroborated by the nature of his prior criminal convictions. (Ex. 10).

V. PROPOSED CHARGE

Based upon the above report, it is recommended that Joseph Marra 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 a long-time associate of the Colombo Organized Crime family and associated with members of Organized Crime.