

INDEPENDENT REVIEW BOARD
444 North Capitol Street, NW, Suite 528
Washington, DC 20001
(202) 434-8080
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Corruption Hotline (800) CALL IRB

Chief Investigator:

Charles M. Carberry, Esq.
Investigations Office
17 Battery Place, Suite 331
New York, NY 10004

Administrator:
John J. Cronin, Jr.

February 11, 2016

Board Members:
Benjamin R. Civiletti, Esq.
Venable LLP
575 7th Street, NW
Washington, DC 20004

Joseph E. diGenova, Esq.
diGenova & Toensing, LLP
1776 K Street, NW, Suite 737
Washington, DC 20006

The Honorable William H. Webster
1850 K Street, NW, Suite 1100
Washington, DC 20006

Executive Board of Local 853
2100 Merced Street
San Leandro, California 94577

Re: Proposed Charge Against Local 853 Member
Lisa Ramsey

Dear Members of the Executive Board:

Enclosed is a Computer Disk, containing the Cover Letter, Charge Report and the Exhibit list. The Exhibits will follow shortly.

A printed copy of the materials may be obtained by printing the contents of the Computer Disk.

Very truly yours,

Members of the
Independent Review Board

By: 

John J. Cronin, Jr.
Administrator

Enclosure:

Cc: Bradley T. Raymond, Esq., w/Exhibits
Charles M. Carberry, Esq., w/Exhibits
Tara M. La Morte, AUSA, w/Exhibits
William Keane, Esq., w/Exhibits
Lisa Ramsey, w/Exhibits

Pursuant to the Consent Order of the United States District Court, S.D.N.Y.
United States -v- International Brotherhood of Teamsters 88 CIV. 4486 (LAP)

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Executive Board of Local 853
2100 Merced Street
San Leandro, California 94577

Re: Proposed Charge Against Local 853
Member Lisa Ramsey

Dear Executive Board Members:

Enclosed are the Independent Review Board's (IRB) report and accompanying exhibits concerning Local 853 Member Lisa Ramsey. This report is forwarded to you for appropriate action under Section G, paragraphs (d) and (e) of the March 14, 1989 Consent Order entered in United States v. IBT, 88 Civ. 4486 (S.D.N.Y.).

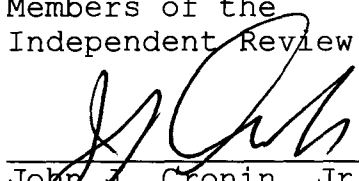
Upon review of the report, if you deem it appropriate, charges under Article XIX of the IBT Constitution should be filed. You have ninety days within which to file the charges, hold a hearing and forward a final written report to the IRB. Pursuant to paragraph I(9) of the IRB Rules, not meeting this deadline may be considered a failure to cooperate with the IRB. Copies of hearing transcripts should be furnished to the IRB and to the Chief Investigator.

If you decide to reject the IRB's recommendation, you must provide a written explanation with the specific reasons for failing to accept. Within seven days of receipt of this letter, please inform the IRB of the actions planned.

Very truly yours,

Members of the
Independent Review Board

By:



John J. Cronin, Jr.
Administrator

Enclosures

cc: Charles M. Carberry, Esq, w/Exhibits
Bradley T. Raymond, Esq., w/Exhibits
William Keane, Esq., w/ Exhibits
Tara M. La Morte, AUSA, w/Exhibits
Lisa Ramsey, w/Exhibits

TO: Members of the Local 853 Executive Board
FROM: Members of the Independent Review Board
RE: Proposed Charge Against Local 853
Member Lisa Ramsey
DATE: February 11, 2016

I. RECOMMENDATION

The Independent Review Board recommends to the Local 853 Executive Board that a charge be filed against Local 853 member Lisa Ramsey (“Ramsey”) for failing to cooperate with the IRB by unreasonably failing to answer a question at her IRB sworn examination on October 13, 2015. By her actions, while an IBT member Ramsey violated Article II, Section 2(a) and Article XIX, Sections 7(b)(1) and (2) and Section 14(i) of the IBT Constitution by obstructing, interfering and unreasonably failing to cooperate with the IRB in performance of its duties as set forth in Paragraph G of the March 14, 1989 Consent Order in United States v. International Brotherhood of Teamsters, 88 Civ. 4486 (S.D.N.Y.) (“Consent Order”).

II. JURISDICTION

Pursuant to Article XIX, Section 14(c) of the IBT Constitution, this disciplinary matter is within the original jurisdiction of the Local 853 Executive Board. Paragraph G(e) of the Consent Order and Paragraph I(6) of the court-approved Rules and Procedures for Operation of the IRB (“IRB Rules”) require that within ninety days of the IRB’s referral of a matter to an IBT entity, that entity must file with the IRB written findings setting forth the specific action taken and the reasons for such action. Pursuant to paragraph I(9) of the IRB Rules, failure to meet this deadline may constitute a failure to cooperate with the IRB. Pursuant to Paragraphs 27, 32 and 33 of the

Final Order in United States v. International Brotherhood of Teamsters, 88 Civ. 4486, if this matter is not completed until after February 17, 2016, the Executive Board's action should be forwarded to the Independent Review Officer within the 90 day period.

III. INVESTIGATIVE FINDINGS

Lisa Ramsey is a member of Local 853 and an employee of the GrandFund. (Ex. 1 at 5; Ex. 2) Her dues have been paid through January 2016. (Ex. 2) The GrandFund has a collective bargaining agreement with Local 853. (Exs. 3-5) Until December 11, 2015, it had three Local members employed there: Charles Bertucio ("Bertucio"), its owner and president; Vicki Lanini ("Lanini"), a marketing specialist; and Ramsey, who is Bertucio's sister and asserts to be "an assistant to Charles Bertucio" who does "all secretarial stuff and whatever he needs done." (Exs. 6, 10; Ex. 7 at 6-7; Ex. 8 at 11-12, 17; Ex. 1 at 5-6)¹ Ramsey began work at the GrandFund on March 1, 2004. (Ex. 2) Her brother signed the collective bargaining agreement with Local 853 on March 8, 2004. (Ex. 3) It included the period beginning March 1, 2004. (Ex. 3) Ramsey joined the IBT on March 31, 2004. (Ex. 2) The original collective bargaining agreement ("CBA") had two classes of employees: hourly and those paid pursuant to commission. (Ex. 3 at 4-5) Throughout the three CBAs between the GrandFund and Local 853, Ramsey was the only member who was an hourly employee at the GrandFund. (Ex. 1 at 6)² Bertucio as President and owner was excluded from membership under the terms of the contract and the IBT Constitution. (Exs. 3 at 1; Ex. 4 at 1; Ex. 5 at 1; Ex. 9 at 65-68; Ex. 13 (Article XIV, Section 3 of the IBT Constitution)) Yet, in 2012, Local 853 allowed him to become a member in order for him to

¹ On December 11, 2015, Bertucio was issued a withdrawal card. (Ex. 10)

² There was the initial CBA; a second in effect from March 1, 2007 through February 28, 2012; and a third from March 1, 2012 through February 28, 2015 (Exs. 3-5)

continue receiving union benefits he had been improperly receiving. (Ex. 7 at 18-20; Ex. 10; Ex. 3 at 1; Ex. 4 at 1; Ex. 5 at 1)

The terms of the GrandFund contracts did not govern the conditions of employment for employees. Contrary to the contract, Lanini, the sole salesperson, did not receive a commission but a bonus that was in the sole discretion of the owner. (Ex. 7 at 17) All the contracts left the rate of the claimed commission and whether it was to be received open which was unique in Local 853 contracts that covered employees paid commissions. (Ex. 9 at 59-60; Ex. 3 at 4-5; Ex. 4 at 4-5; Ex. 5 at 4-5) In addition, the member owner's economic terms from his employment and ownership were not governed by the contract. (Ex. 7 at 19-21)

In 2015, the IRB was conducting an investigation into, among other things, whether the CBA was an improper collusive arrangement between Bertucio and his friend, Rome Aloise, Local 853's principal officer. In connection with that investigation, Ramsey was served with a notice for sworn testimony. (Ex. 11) She testified on October 13, 2015. (Ex. 1) Whether the CBA covered the terms and conditions of her employment was relevant to the IRB's investigation. At her testimony she was asked: "What's your current salary?" (Ex. 1 at 7) Pursuant to her lawyer's instructions, she did not answer. (Ex. 1 at 7-8) After being warned that a refusal to answer might lead to a charge that she unreasonably failed to cooperate with the IRB, she continued to refuse to answer. (Ex. 1 at 7-8) Although her wage was allegedly governed by the contract and she claimed to work forty hours a week, her lawyer admitted that "[t]he Local doesn't know what she makes." (Ex. 1 at 6-7)³ Under Article XVI, Section 2 of the Local 853 Bylaws it is a violation for a member

³ When asked if she worked five days a week, Ramsey responded, "We don't clock in, but 40 hours." (Ex. 1 at 6)

to receive compensation that was not determined under the terms of the contract. (Ex. 15) If the contract was being followed, it would have been a matter of arithmetic to determine her wages.

IV. ANALYSIS

The court-approved Rules and Procedures for Operation of the Independent Review Board for the International Brotherhood of Teamsters empower the Chief Investigator,

[t]o take and require sworn statements or sworn in-person examinations of any officer, member, employee, representative, or agent of the IBT, provided that the IRB has 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...Failure to appear for a duly-noticed in-person examination shall be deemed a failure to cooperate fully with the IRB.

(IRB Rules, Paragraph H(3)(c)). (Ex. 12) Additionally, Article XIX, Section 14(i) of the IBT Constitution provides:

All officers, members, employees, and representatives of the International Union 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 Review Board shall be deemed to be conduct which brings reproach upon the Union, and which is thereby within the Review Board's investigatory and decisional authority.

(Ex. 13)

It is well-settled that the failure to cooperate with the IRB is grounds for disciplining IBT members.

See, United States v. IBT [Hickey], 945 F. Supp. 96, 99 (S.D.N.Y. 1994) (Ex. 14) On October 13, 2015, Ramsey, at her properly noticed sworn examination, failed to answer a question directly related to the issue of whether the contract between her employer and Local 853 was enforced.

(Ex. 1 at 7-8) The refusal to answer was unreasonable.

V. PROPOSED CHARGE

Based on the foregoing, it is recommended that Lisa Ramsey be charged as follows:

While a member of Local 853 and the IBT, you brought reproach upon the IBT in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(1) and (2) and Section 14(i) of the IBT Constitution and obstructed, interfered and unreasonably failed to cooperate with the duties of the Independent Review Board as set forth in Paragraph G of the March 14, 1989 Consent Order in United States v. International Brotherhood of Teamsters, 88 Civ. 4486 (S.D.N.Y.), to wit:

At your duly noticed sworn examination on October 13, 2015, you willfully and without justification failed to answer the question of what your salary was, which was allegedly determined under the contract between your brother's company, the GrandFund, and Local 853.

Exhibits to the Report Involving Lisa Ramsey

Exhibit	Description
1	Sworn Examination of Lisa Ramsey dated October 13, 2015
2	Dues Printout and Application for Lisa Ramsey
3	Collective Bargaining Agreement for The GrandFund 3/1/04 - 2/28/06
4	Collective Bargaining Agreement for The GrandFund 3/1/07 - 2/28/12
5	Collective Bargaining Agreement for The GrandFund 3/1/12 - 2/28/15
6	Local 853 Roster of Members for The GrandFund (excerpt)
7	Sworn Examination of Charles Bertucio dated October 13, 2015
8	Sworn Examination of Vicki Lanini dated October 13, 2015
9	Sworn Examination of Rome Aloise dated November 4, 2015 (excerpt)
10	Dues Printout and Application for Charles Bertucio
11	Letter from IRB to Lisa Ramsey dated September 4, 2015
12	Rules and Procedures for Operation of the Independent Review Board
13	IBT Constitution (excerpt)
14	U S v. IBT [Hickey]
15	Bylaws of Local 853