

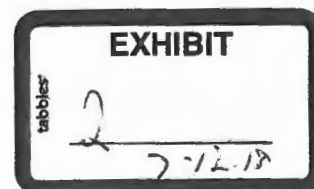
TO: Members of the Local 282 Executive Board  
FROM: Joseph E. diGenova, Independent Investigations Officer  
RE: Proposed Charge against Local 282 Member Steven Murray  
DATE: May 31, 2018

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**I. RECOMMENDATION**

Pursuant to Paragraphs 30 and 31 of the Final Agreement and Order, the Independent Investigations Officer ("IIO") recommends to the Local 282 Executive Board that a charge be filed against Local 282 member and former steward Steven Murray ("Murray") for 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 refused to answer certain questions during his sworn examination on May 8, 2018. These questions related to contact with individuals alleged to have organized crime ties as well as involvement with gambling and loan activity with Teamster members. As discussed below, during his sworn examination, Murray refused to answer nineteen questions, asserting his Fifth Amendment privilege against self-incrimination.

By his actions, it appears that, while an IBT member, Murray brought reproach upon the IBT and violated Article II, Section 2(a) and Article XIX, Sections 7(b)(1), (2), and 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, the IIO designates this as a matter within the jurisdiction of the Local 282 Executive Board. (Ex. 1 at 17-18) Paragraph 32 of the Order requires that within 90 days of the IIO's referral, the Local 282 Executive Board must file with the Independent Review Officer ("IRO") written findings setting forth the specific action taken and the reason for such action. (Ex. 1 at 17) Failure to meet this legal obligation may be found to be an act taken to hinder the work of the Independent Disciplinary Officers in violation of the permanent injunction. (Ex. 1 at 3, Paragraph (2)(D))

## III. INVESTIGATIVE FINDINGS

### A. Background of Local 282

Local 282 is located in Lake Success, N.Y. As of December 2017, it had 3,758 members employed at various construction companies in the New York City area. (Ex. 2) Historically, organized crime has dominated IBT Local 282. (Ex. 3) Past Local 282 officials were closely associated with or controlled by LCN members for decades. According to news reports, between 1977 and 1984, Local 282's then President John Cody was a close associate of the Gambino Crime Family. (Exs. 4-5) In 1982, Cody was

convicted of operating Local 282 as a racketeering enterprise through extortion, kickbacks and bribery. (Ex. 6)

In 1991, Salvatore Gravano ("Gravano"), an admitted member and underboss of the Gambino LCN Family, detailed the then-continuing organized crime control over Local 282. (Ex. 7 at 26-27, 46) Gravano explained how John Gotti, then the boss of the Gambino Family, appointed him to control Local 282 for the Gambino Family. (Ex. 3) LCN member Gravano reported that he had a close relationship with Local 282 officers including then Local 282 President Robert Sasso ("Sasso") and former Secretary Treasurer Michael Carbone ("Carbone"). (Ex. 3; Ex. 7 at 26-27, 46) According to Gravano, Sasso and Carbone were Gambino Crime family associates. (Ex. 3; Ex. 7 at 26-27, 46) Gravano further advised that when employer payoffs were received by Local 282 officers, he would receive money from either Sasso or Carbone. (Ex. 3)<sup>1</sup>

In December 1991, the Investigations Officer charged Sasso and Carbone with knowingly associating with members of organized crime and Sasso was also charged with failing to investigate former Local 282 President Cody's ties to organized crime.

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<sup>1</sup> According to evidence presented at John Gotti's 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. 8)

(Exs. 9-10)<sup>2</sup> In 1992, Sasso and Carbone signed agreements with the Investigations Officer permanently resigning from all IBT positions, including IBT membership. (Exs. 11-12) In 1992, a federal grand jury indicted then current and former Local 282 officers Sasso, Carbone, Michael Bourgal and John Probeyahn for labor racketeering. (Ex. 13)<sup>3</sup> All four of the Local 282 officers entered guilty pleas to racketeering charges. (Ex. 14) In 1996, Probeyahn and Bourgal both entered into agreements with the IRB permanently resigning from the IBT to resolve IRB-recommended charges that they engaged in labor racketeering and committed perjury when testifying during an IRB sworn examination. (Exs. 15-16)

Since 1991, under the Consent Order, thirty-four Local 282 members have been either permanently barred based upon decisions of the Independent Administrator, the IRB or the IBT or permanently resigned from the Local pursuant to an agreement. Sixteen of these members were barred based upon charges that they knowingly associated with members of organized crime or were members of organized crime and six were barred based upon

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<sup>2</sup> In 1982, Cody was convicted of racketeering and sentenced to 5 years imprisonment. (Ex. 5)

<sup>3</sup> In 1992, Bourgal replaced Sasso as Local 282 President following Sasso's resignation and Probeyahn replaced Carbone as Secretary Treasurer.

charges that they knowingly associated with a barred IBT member.  
(Ex. 17)

In 1995, pursuant to a consent judgement in a civil RICO suit, Local 282 was placed in government trusteeship. (Ex. 18) The consent judgement was entered into "to eradicate any influence of organized crime or corruption over Local 282. . ."  
(Ex. 18 at 2)

In 2011, five individuals, including a Local 282 shop steward, were charged with embezzlement, unlawful payments and health care fraud in connection with a scheme to embezzle payments owed to the Local 282 Benefit Funds. (Ex. 20) The Local 282 shop steward, Stephen Tripodi, pled guilty to receiving unlawful payments from an employer. (Ex. 20)<sup>4</sup>

#### **B. Steven Murray**

According to IBT records, Murray has been a member of Local 282 since January 2002. (Exs. 23, 24)<sup>5</sup> Murray's last dues payment was on December 27, 2017 and he paid through December 2018. (Ex. 23) During his May 8, 2018 sworn examination, Murray testified

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<sup>4</sup> In 2013, the IRB recommended that Tripodi be charged with accepting \$20,000 from an employer. (Ex. 21) Based upon these charges, the Local 282 Executive Board permanently barred Tripodi from the IBT. (Ex. 22) The IRB approved the decision. (Ex. 22)

<sup>5</sup> Murray became a Teamster when he joined Local 813 in December 1988. (Ex. 26) In January 2002, he transferred to Local 282. (Ex. 24)

that he was employed at Bond Brothers, Inc. (Ex. 25 at 6) He was the shop steward there. (Ex. 25 at 6)

In March 2018 in New York State Court in Westchester County, Murray and nine other individuals were indicted for Enterprise Corruption, in violation of New York Penal Law §460.20(1)(a). (Ex. 27 at 1) Along with others, Murray was charged with 26 counts of Criminal Usury in the First Degree, in violation of New York Penal Law §190.42. (Ex. 27) The indictment alleged the ten defendants were members of the Westchester Loansharking and Bookmaking Enterprise, which engaged in unlawful loansharking and bookmaking in the New York Counties of the Bronx and Westchester and elsewhere. (Ex. 27 at 2) Five of Murray's codefendants were described as either members or associates of organized crime. (Ex. 27 at 3) Murray was described in the indictment as an associate of the Lucchese Organized Crime Family. (Ex. 27 at 3) The indictment against Murray is pending.

After the indictment was made public, on April 2, 2018, Local 282 removed Murray from his position as a shop steward. (Ex. 19)

**C. Murray's Failure to Cooperate with the IIO**

On April 11, 2018, the IIO sent Murray a notice of sworn examination scheduling his sworn examination for April 25, 2018. (Ex. 28) On April 25, 2018 Murray appeared for his sworn examination but requested an adjournment because his attorney

was unavailable. (Ex. 29) Based upon his request, Murray's sworn examination was rescheduled to May 8, 2018. (Ex. 29)

Murray's IIO sworn examination was conducted on May 8, 2018. (Ex. 25) Murray was represented by counsel. (Ex. 25 at 4-5) During his sworn examination, Murray asserted his Fifth Amendment privilege and refused to answer the following nineteen questions:

Do you know Dominic Capelli?

Do you know Robert Wagner?

Do you know Frank McKiernan?

Do you know Michael Wagner?

Do you know Anthony Martino?

Do you know Seth Trustman?

Did you know Salvatore Disimone?

Have you ever loaned anyone any money?

Have you ever collected a loan?

Have you ever loaned any money to any Teamster?

Have you ever given any money to any Teamster?

Have you ever borrowed any money from any Teamster?

Have you ever collected any money from any Teamster?

Have you ever discussed a loan with any Teamster?

Have you ever been to the Glass Room in New Rochelle?

Have you ever been to McKiernan's Lawton Street Tavern in New Rochelle?

Have you ever paid out any gambling winnings to any Teamster?

Has any Teamster ever placed any bet with you?

Have you ever collected any gambling losses from any Teamster?

(Ex. 25 at 36-40)<sup>6</sup>

During the sworn examination, Murray and his counsel were informed that refusing to answer questions by asserting his Fifth Amendment privilege could result in internal union disciplinary charges being filed against Murray. (Ex. 25 at 36-37)

#### IV. ANALYSIS

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

[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 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.

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<sup>6</sup> Capelli was described in news reports and the indictment as a member of the Lucchese LCN Family. (Ex. 27 at 3; Ex. 40) DiSimone was described in the indictment as a Capo in the Lucchese family who recently died. (Ex. 27 at 3) McKiernan, Martino, Trustman and Michael Wagner were described in the indictment as associates of the Lucchese LCN family. (Ex. 27 at 3)



(IIO Rules, Paragraph B (2) (b)) (Ex. 30 at 3-4) On May 8, 2018, the date of his sworn examination, Murray was an IBT member. (Ex. 25 at 4-5; Ex. 23)

Article XIX, Section 7(b)(11) of the IBT Constitution prohibits IBT members from "[c]omitting any act of racketeering activity as defined by applicable law." (Ex. 38 at 144) Section 7(b)(9) prohibits IBT members from "[k]nowingly 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." (Ex. 38 at 144) The permanent injunction in the Final Agreement provides in pertinent part that members, officers and employees of the IBT ". . . are permanently enjoined from: (A) committing any act of racketeering activity, as defined in 18 U.S.C. §1961; (B) knowingly associating with any member or associate of any Organized Crime Family of La Cosa Nostra or any other criminal group." (Ex. 1 at 3)

In prior cases under the Consent Decree, the Court and the IBT have held that IBT members who refused to answer questions by asserting their Fifth Amendment privilege during their sworn examinations have violated the IBT Constitution and Consent Order by unreasonably failing to cooperate. E.g., United States v. IBT [Calagna], 1991 U.S. Dist. LEXIS 11256 \*8-9 (August 14, 1991); United States v. IBT [Doyle], slip. op. 88 Civ. 4486

(S.D.N.Y. August 16, 2004; United States v. IBT [Hickey], 945 F. Supp. 96 (S.D.N.Y. 1996); In re: Vincent Feola, Joint Council 16 Decision dated November 17, 1998, approved by the IRB on December 9, 1998; In re: Mark Houmis, Local 211 Executive Board decision dated November 22, 2000, modified on December 22, 2000; approved by the IRB on January 11, 2001; In re: Michael Russo, Local 282 Executive Board decision dated July 17, 2013, modified on August 27, 2013; approved by the IRB on September 19, 2013.<sup>7</sup>

As the Court has found, the Constitutional privilege is inapplicable to Murray's sworn examination because the IIO is not a state actor. See, United States v. IBT [Simpson], 931 F. Supp. 1074, 1107-1110 (S.D.N.Y. 1996) aff'd, 120 F. 3d 341 (2d Cir. 1997) (Ex. 37) In rejecting an IBT member's application for a stay of a sworn examination on Fifth Amendment grounds until the resolution of the charges in an indictment pending against the member, District Court Judge David N. Edelstein explained,

Because the actions of the IRB and its Investigations Officer do not constitute state action, the Fifth Amendment privilege against self-incrimination is inapplicable to Hickey as a defense against appearing before the Investigations Officer. Moreover, should Hickey elect to invoke the Fifth Amendment during his sworn examination before the Investigations Officer, this invocation will expose him to charges of bringing reproach upon the union for

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<sup>7</sup> These decisions are attached as Exhibits 31, 32, 33, 34, 35, 36. Pursuant to Paragraph 49 of the Final Agreement, Consent Decree precedent controls under the Final Agreement. (Ex. 1 at 25)

obstructing the IRB's and the Investigations Officer's investigation, and endanger his status as a member of the IBT.

United States v. IBT [Hickey], supra, 945 F. Supp. at 99. (Ex. 33)

During his sworn examination, Murray refused to answer questions including those concerning whether he had contact with individuals alleged to have organized crime ties and whether he was involved with loans to Teamsters and gambling with Teamster members. (Ex. 25 at 36-40)

Both Article XIX, Sections 7(b) (9) and (11) of the IBT Constitution and Paragraph 2(A) and (B) of the Final Order prohibit IBT members from knowingly associating with members and associates of organized crime and from engaging in racketeering activity. (Ex. 1 at 3; Ex. 38) The questions Murray refused to answer related to such activity. (Ex. 25 at 36-40)<sup>8</sup> These areas of inquiry were well within the IIO's investigative authority. See, United States v. IBT [Piscopo and Maguire], 2012 U.S. Dist. LEXIS 176879 (S.D.N.Y. December 11, 2012) (Court affirmed the

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<sup>8</sup> Pursuant to 18 U.S.C. §1961(6), the definition of unlawful debt as used in the RICO statute "means a debt (A) incurred or contracted in gambling activity which was in violation of the law of the United States, a State or political subdivision thereof, or which is unenforceable under State or Federal law in whole or in part as to principal or interest because of the laws relating to usury, and (B) which was incurred in connection with the business of gambling in violation of the law of the United States, a State or political subdivision thereof, or the business of lending money or a thing of value at a rate usurious under State or Federal law, where the usurious rate is at least twice the enforceable rate."

IRB's determination that a state crime analogous to a RICO predicate act brought reproach upon the IBT stating ". . . undue influence and racketeering corruption of the IBT ranks were among . . . the main purposes of the agreement memorialized as the Consent Decree." (Ex. 39 at 5)

When Murray chose not to answer certain questions at his properly noticed sworn examination, he failed to cooperate with the IIO.<sup>9</sup>

#### V. PROPOSED CHARGE

Based upon the foregoing, it is recommended that Steven Murray be charged as follows:

While a member of Local 282 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), (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:

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<sup>9</sup> Murray's counsel raised Article XIX, Section 7(a) of the IBT Constitution as a defense. The recommended charge in this report, failure to cooperate with the IIO, is not based upon the same facts as the pending criminal case against Murray. Accordingly, Article XIX, Section 7(a) of the IBT Constitution which provides: "No member or officer shall be required to stand trial on charges involving the same set of facts as to which he is facing criminal or civil trial until his final court appeal has been concluded" is inapplicable to the proposed charge. (Ex. 38 at 142) The recommended charge is based on Murray's unreasonable failure to cooperate when asked questions; that is not the same set of facts underlying the indictment.

On May 8, 2018, you willfully and without justification refused to answer certain questions during your in-person sworn examination conducted pursuant to the Final Agreement and Order and Rules Governing the Authorities of Independent Disciplinary Officers and the Conduct of Hearings.

Exhibits to Charge Report Regarding Steven Murray

Exhibit	Description
1	Final Agreement and Order
2	Form LM-2 of Local 282 for 2017
3	Declaration of FBI Special Agent John Iacovelli dated March 26, 1992
4	Newsday article dated May 31, 1991
5	Newsday article dated March 23, 1995
6	Superseding Indictment in United States v. John Cody and Guilty Plea
7	Declaration of FBI Special Agent Bruce Mouw dated April 7, 1992
8	New York Times article dated June 22, 1994
9	Investigations Officer's charge regarding Robert Sasso dated December 18, 1991
10	Investigations Officer's charge regarding Michael Carbone dated December 18, 1991
11	Affidavit and Agreement of Robert Sasso dated August 18, 1992
12	Affidavit and Agreement of Michael Carbone dated April 15, 1992
13	Indictment in United States v. Sasso, Carbone, Bourgal, Probeyahn
14	Newsday article dated March 19, 1994
15	Affidavit and Agreement of John Probeyahn dated February 7, 1996
16	Affidavit and Agreement of Michael Bourgal dated February 13, 1996
17	Schedule of Charges Against Local 282 Members
18	Consent Judgment in United States v. Local 282
19	Local 282 shop steward document dated April 2, 2018
20	Superseding Indictment in United States v. Stephen Tripodi et al and Criminal Cause for Pleading
21	IRB Charge Report regarding Stephen Tripodi dated June 25, 2013
22	Local 282 Decision regarding Stephen Tripodi dated September 5, 2013
23	Local 282 Dues Record for Steven Murray
24	Local 282 Membership Application for Steven Murray
25	Sworn Examination of Steven Murray dated May 8, 2018
26	Local 813 Dues Record of Steven Murray
27	Indictment in People of the State of New York v. Steven Murray et al dated March 20, 2018
28	Sworn Examination Notice for Steven Murray dated April 11, 2018
29	IIO Letter to Bruce P. Bendish, Esq. dated April 25, 2018
30	Rules Governing the Authorities of Independent Disciplinary Officers and the Conduct of Hearings
31	United States v. IBT [Calagna], 1991 U. S. Dist. Lexis 11256 (August 14, 1991)
32	United States v. IBT [Doyle], 88 Civ. 4486 (S.D.N.Y. August 16, 2004)
33	United States v. IBT [Hickey], 945 F. Supp. 96 (S.D.N.Y. 1996)
34	Joint Council 16 Decision regarding Vincent Feola
35	Local 211 Decision regarding Mark Houmis
36	Local 282 Decision regarding Michael Russo
37	United States v. IBT [Simpson], 931 F. Supp. 1074 (S.D.N.Y. 1996)
38	Excerpts from IBT Constitution
39	United States v. IBT [Maguire and Piscopo] 2012 U.S. Dist. LEXIS 176879 (S.D.N.Y. 2012)
40	New York Daily News articles dated October 2, 2009 and March 28, 2018 and ABC News article dated October 1, 2009

**INDEPENDENT DISCIPLINARY OFFICERS  
OFFICE OF THE INDEPENDENT INVESTIGATIONS OFFICER**

17 Battery Place  
Suite 331  
New York, New York 10004-1150  
Telephone: (212) 635-0202  
Facsimile: (212) 363-1935

**VIA EXPRESS MAIL**

May 31, 2018

Members of the Local 282 Executive Board  
IBT Local 282  
2500 Marcus Avenue  
Lake Success, NY 11042

RE: Local 282 Member Steven Murray

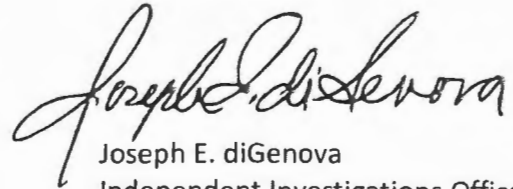
Dear Members of the Local 282 Executive Board:

Enclosed are the Independent Investigations Officer's ("IIO") report and accompanying exhibits concerning a proposed charge against Local 282 member Steven Murray. The report is forwarded to you for appropriate action under Paragraph 32 of the Final Agreement and Order dated February 17, 2015 entered in United States v. IBT, 88 Civ. 4486 (S.D.N.Y.) ("Order"). Pursuant to the Order, copies of this report are also being sent to the General President, General Executive Board members and the United States Attorney.

Upon review of the report, if you deem it appropriate, charges under Article XIX of the IBT Constitution should be filed. Under the Order, you have ninety days within which to file the charges, hold a hearing, and forward a final written report to the Independent Review Officer ("IRO"). Copies of hearing transcripts should be furnished to this office.

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

Very truly yours,



Joseph E. diGenova  
Independent Investigations Officer

Enclosures

cc: IBT General President (with Exhibits)  
Members of the General Executive Board (with Exhibits)  
Independent Review Officer Barbara S. Jones, Esq. (with Exhibits)  
AUSA Rebecca Tinio (with Exhibits)  
Bradley T. Raymond, Esq. (with Exhibits)  
Bruce Bendish, Esq. (Counsel for Mr. Murray) (with Exhibits)