

INDEPENDENT REVIEW BOARD
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Chief Investigator:

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Administrator:
John J. Cronin, Jr.

March 16, 2011

VIA UPS NEXT DAY

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Hon. Loretta A. Preska
United States District Court
United States Courthouse
500 Pearl Street, Room 1320
New York, NY 10007

Re: APPLICATION 148 OF THE INDEPENDENT REVIEW BOARD

Dear Judge Preska:

I transmit herewith one original and one copy of Application 148 of the Independent Review Board, submitting the Opinion and Decision regarding John Castelle, approved by the IRB, to Your Honor for review, and if appropriate, to be "so ordered."

In addition to the Application, enclosed please find the original and one copy of:

- (a) the March 16, 2011, Opinion and Decision of the IRB;
- (b) an Acknowledgment of Receipt; and
- (c) an Affidavit of Service.

If you find it appropriate, I respectfully request that a member of Your Honor's staff file the original of the "backed" Application, Opinion and Decision, Acknowledgment of Receipt and Affidavit of Service with the Clerk's office.

Respectfully Submitted,

Members of the
Independent Review Board

By: 

John J. Cronin, Jr.
Administrator

JJC:cft
Enclosures

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)

cc: Brian Feldman, AUSA
Charles M. Carberry, Esq., w/o Appendix to Exh. A
Bradley T. Raymond, Esq., w/o Appendix to Exh. A
John Castelle

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	
	:	88 CIV. 4486 (LAP)
Plaintiff,	:	
	:	APPLICATION 148 OF THE
v.	:	INDEPENDENT REVIEW BOARD
	:	-- OPINION AND DECISION OF
INTERNATIONAL BROTHERHOOD OF	:	THE INDEPENDENT REVIEW
TEAMSTERS, <u>et al.</u>	:	BOARD IN THE MATTER OF
	:	JOHN CASTELLE
Defendants.	:	

Pursuant to Paragraph O. of the Rules and Procedures for Operation of the Independent Review Board ("IRB") for the International Brotherhood of Teamsters ("IRB Rules"), Application is made by the IRB for ruling by the Honorable Loretta A. Preska, United States District Judge for the Southern District of New York, on the issues heard by the IRB during a hearing on November 10, 2010, and thereafter determined, on the charges filed against John Castelle ("Castelle"), a member of Local 282.

Castelle was charged with bringing reproach upon the International Brotherhood of Teamsters ("IBT") by being a member of the Luchese La Casa Nostra crime family while he was an IBT member and for failing to cooperate with the IRB by failing to appear for his in-person sworn examination. The preponderance of the evidence established that Castelle violated the IBT Constitution.


Accordingly, Castelle is hereafter permanently barred from holding membership in or any position with the IBT or any IBT-affiliated entity. Castelle is permanently barred from seeking or accepting from the IBT or any IBT-affiliated entity any salary, severance payment, allowance, fee, payment for unused vacation, or compensation of any kind except fully vested pension compensation and fully vested welfare benefits; and permanently barred from the date of expulsion from having any contributions made on his behalf by any IBT entity to any pension, health and welfare, severance, or other benefit fund.

Enclosed with our March 16, 2011, Opinion and Decision is the October 13, 2010, IRB Investigative Report (Exhibit A), and the Appendix to Exhibit A (Exhibits 1 to 70), the November 10, 2010, IRB Hearing Transcript (Exhibit B), and the IRB Exhibits IRB-1 to IRB-7 introduced at the hearing (Exhibit C).

It is respectfully requested that an Order be entered affirming the IRB's March 16, 2011, Opinion and Decision if Your Honor finds it appropriate.

Dated: March 16, 2011

By:



John J. Cronin, Jr.
Administrator

-----X
IN RE: : OPINION AND DECISION
 : OF THE INDEPENDENT
 John Castelle : REVIEW BOARD
 :
 :
-----X

PROCEDURAL HISTORY

John Castelle ("Castelle") was a member of Local 282 of the International Brotherhood of Teamsters. On October 13, 2010, the Independent Review Board forwarded an investigative report to IBT General President James P. Hoffa pursuant to the Consent Order in United States v. IBT. (IRB Ex. 1)¹ That report with accompanying exhibits recommended that the General President file charges against Castelle for bringing reproach upon the IBT for being a member of the Luchese La Casa Nostra ("LCN") crime family and for failing to cooperate with the IRB in violation of the IBT Constitution while he was a member of Local 282. President Hoffa filed the charges on October 15, 2010 and referred the matter back to the IRB for adjudication. (IRB Ex. 2) On October 20, 2010, notice was sent to Castelle of the hearing before the IRB. (IRB Ex. 3-5) He was sent the exhibits to the IRB report on October 25, 2010. (IRB Exs. 6-7)

¹ In this ruling, "IRB Ex." refers to exhibits the IRB introduced at the hearing on the charge against Castelle and "Ex." refers to the exhibits to the investigative report which were introduced at the hearing.

On November 10, 2010, the IRB held the noticed hearing. At that hearing, the Chief Investigator introduced the exhibits previously provided Castelle to support the charges. These were Exhibits 1 through 70. In addition, FBI Special Agent Geraldine Hart, who had provided an affidavit detailing why in the FBI's expert opinion Castelle was a member of the Luchese crime family, was available for cross-examination. Castelle failed to appear at the hearing. Subsequently, on November 30, 2010, Castelle was sent a transcript of the IRB hearing and was given 10 days in which to provide any response. None was provided.

FACTS

A. John Castelle's Local 282 Membership

Castelle became a Local 282 member in April 2006. (Ex. 41) Local 282 records disclose his date of birth as June 18, 1959. (Ex. 42) According to Local 282 records, Castelle worked for Andrews Trucking Corporation ("Andrews Trucking"). (Exs. 41-42) Castelle's dues were paid through December 2009 after a payment in March 2009. (Ex. 41)² He was never issued a withdrawal card. (Ex. 41)

According to February 7, 2008 news reports, trucks, computers and records of Andrews Trucking, Castelle's employer,

² After being delinquent in dues, in April 2010, Castelle was suspended from Local 282 membership. (Ex. 41)

were seized by organized crime investigators. (Ex. 43) In an indictment filed on February 6, 2008 in the United States District Court for the Eastern District of New York, Andrews Trucking was identified as a company controlled by alleged Gambino LCN Family associate Joseph Spinnato ("Spinnato"). (Ex. 44 at 10-11) The indictment accused Spinnato of embezzling, stealing and willfully abstracting and converting to his own use, moneys, funds, securities, premiums, credits, property and other assets of the International Brotherhood of Teamsters Local 282 Health and Benefit Fund. (Ex. 44 at 35-37) Spinnato pled guilty to conspiracy to commit mail fraud and was sentenced to four months imprisonment. (Ex. 45)

B. Castelle's Failure to Appear

Castelle was a Local 282 member and had not been issued a withdrawal card when on January 26, 2010, the Chief Investigator's office sent Castelle a notice of sworn examination. (Ex. 46) The examination was scheduled for February 12, 2010. (Exs. 46 and 48) Castelle, in a letter to the IRB dated January 28, 2010, indicated that he would not appear for his in person sworn examination. (Ex. 47) At his sworn examination, Castelle would have been asked questions about his activities with Luchese crime family members. He did not appear.

In his January 28, 2010 letter, Castelle stated that he no longer desired to be a Local 282 member. (Ex. 47) On February 11, 2010, the Chief Investigator's office sent Castelle an Affidavit and Agreement in order for Castelle to permanently resign from the IBT. (Ex. 48) Castelle never signed the Agreement.

C. Luchese La Cosa Nostra Family Involvement with Teamster Locals in New York City

Declarations the FBI has previously provided to the IRB and included as exhibits at this hearing detailed the evidence establishing the existence of the Luchese organized crime family through informants, electronic surveillance and other investigative methods. (Exs. 49, 50, 59) The Luchese LCN family is one of the five LCN families in New York. (Ex. 1 at 2; Ex. 50) Historically, the Luchese family has been active in labor racketeering. (Ex. 50 at 6)

The Luchese LCN family has had a history of involvement in New York City Teamster Locals. Under the Consent Decree, at least three Local principal officers and two IBT members have been removed for association with or membership in the Luchese LCN family. Local 295 principal officer Anthony Calagna and Local 295 steward Patrick Dellorusso were both found to be members of the Luchese LCN family. (Exs. 51-52) Two other Local

principal officers, Bernard Adelstein (Locals 813 and 1034) and John Ferrara (Local 522), were removed for knowingly associating with Luchese LCN members as well as other organized crime members. (Exs. 53-56) In addition, Local 560 member Onofrio Mezzina was permanently barred from the IBT for knowingly associating with members of the Luchese LCN family. (Exs. 57-58)

D. John Castelle's Organized Crime Membership

In the FBI expert opinion introduced as evidence, John Castelle, also known as John Castellucci and "Big John", date of birth June 18, 1959, is a Soldier in the Luchese LCN Family. (Ex. 1 at 6-7) The FBI's expert opinion is based on information from three separate confidential informants whose information had proven reliable in the past. (Ex. 1 at 6-7) Each of the informants separately identified Castelle as a member of the Luchese crime family. (Ex. 1 at 6-7) A recent surveillance and Castelle's criminal history also corroborated the FBI's expert opinion.

Recently, on March 9, 2010, Castelle was observed at a social club at 3205 Westchester Avenue in the Bronx that is a known gathering place for the Luchese crime family. (Ex. 1 at 7) Castelle was seen in a "walk and talk" with Steven Crea, whom the FBI has identified as the head of the Luchese LCN family. (Ex. 1 at 7) Other members of organized crime were also

observed on the premises. (Ex. 1 at 7) Crea has been publicly identified on many occasions as the head of the family and a Luchese member. (Ex. 49 at 9; Ex. 59 at 5; Ex. 60)

In October 1998, Castelle, as John Castellucci, was sentenced in the United States District Court for the Eastern District of New York to a term of incarceration of 57 months for his conviction for possession of a firearm and attempted tax evasion. (Exs. 61-62) In November 2000, seven reputed members of the Bensonhurst Crew of the Luchese LCN family were named in an Eastern District of New York racketeering indictment. (Exs. 63-64) Included in the indictment were Joseph Tangorra ("Tangorra"), Joseph Truncale ("Truncale"), Eugene Castelle, Lester Ellis, Robert Greenberg, Scott Gervasi ("Gervasi") and John Castellucci. (Exs. 63-64) Tangorra and Eugene Castelle were identified as caporegimes in the Luchese LCN family and Truncale and Gervasi were identified as Luchese family soldiers. (Exs. 63-64) Eugene Castelle is Castelle's brother. In March 2002, Castelle, as John Castellucci, was sentenced in the United States District Court for the Eastern District of New York, along with his brother Eugene, to a term of incarceration for 41 months for his conviction for racketeering. (Exs. 63, 65)³ The other five individuals in that indictment along with the two

³ Castelle's sentence in this case was to run concurrently with the remaining term of his 57 month sentence described above. (Ex. 63)

Castelles were members of a Luchese controlled group known as the Bensonhurst crew. (Exs. 63-64) Subsequently, according to a news article, the New York City Business Integrity Commission in reviewing an application of Castelle's brother, Anthony Castelle, found that both John and Eugene Castelle were connected to organized crime in New York City. (Ex. 66) Castelle was released from prison on October 20, 2004. (Ex. 67)

DISCUSSION

The standard of proof for establishing the charge against Castelle is a preponderance of evidence. Rules and Procedures for Operation of the Independent Review Board, Para. J(6) ("In order to be sustained, the proposed ... charges ... contained in the Investigative Report, must be supported by a preponderance of reliable evidence."); United States v. IBT [Simpson], 931 F. Supp. 1074, 1089 (S.D.N.Y. 1996), aff'd, 120 F.3d 341 (2d Cir. 1997).

Membership in an organized crime family violates the Consent Order and the IBT Constitution. By being a member of the Luchese LCN organized crime family, Castelle brought reproach upon the IBT in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(2) and (9) of the IBT Constitution and Paragraph E(10) of the March 14, 1989 Consent Decree in United States v. IBT, 88 Civ. 4486 (S.D.N.Y.). Pursuant to

Article XIX, Section 7(b)(2) of the IBT Constitution, charges may be preferred against a member in violation of the "oath of loyalty to the Local Union and the International Union." It is well settled that LCN membership violated 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 Office v. Senese, et al. Independent Administrator Decision at 3-5, 26, aff'd, 745 F. Supp. 908 aff'd, United States v. IBT, 941 F.2d 1292, 1298 (2d. Cir. 1991), cert. denied, 502 U.S. 1091 (1992). Article XIX, Section 7(b)(9) of the IBT Constitution provides for charges against members 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."

Hearsay, such as that here from the three confidential informants whose information has proven to be reliable, can be corroborated by interlocking statements concerning the same point from different witnesses and be sufficient to support a finding that the charge was proven. In United States v. IBT [Cimino], 964 F.2d 1308, 1312-1313 (2d Cir. 1992), the Second Circuit found separate statements from three different witnesses

adequate to establish a Union officer's association with members of organized crime. Moreover, here, there is additional corroboration in Castelle's recent conference with Crea, the head of the Luchese LCN family, which law enforcement agents observed. (Ex. 1 at 7) In addition, Castelle's criminal history evidenced his organized crime associations. (Exs. 61-65)

Castelle's failure to cooperate by not giving sworn testimony was unreasonable. In prior cases under the Consent Order, charges have been upheld against union members who have not answered questions during their IRB sworn examination, even if the member invoked the Fifth Amendment privilege not to testify. United States v. IBT [Calagna], 1991 U.S. Dist. Lexis 11256 (August 14, 1991); Joint Council 16 Decision regarding Vincent Feola dated November 17, 1998; See, United States v. IBT [Hickey], 945 F. Supp. 96 (S.D.N.Y. 1996). Here, there was no reasonable basis for Castelle to refuse to testify.

CONCLUSION

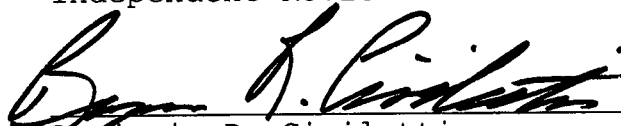
The preponderance of the evidence established that John Castelle was a member of the Luchese LCN family while an IBT member and that in refusing to appear and answer questions at an IRB sworn examination, he unreasonably failed to cooperate with the IRB and brought reproach upon the IBT and thus violated the IBT Constitution.


Accordingly, Castelle is hereafter permanently barred from holding membership in or any position with the IBT or any IBT-affiliated entity. Castelle is permanently barred from seeking or accepting from the IBT or any IBT-affiliated entity any salary, severance payment, allowance, fee, payment for unused vacation, or compensation of any kind except fully vested pension compensation and fully vested welfare benefits; and permanently barred from the date of expulsion from having any contributions made on his behalf by any IBT entity to any pension, health and welfare, severance, or other benefit fund.

Dated: March 16, 2011

Respectfully submitted,

Members of the
Independent Review Board


Benjamin R. Civiletti


Joseph E. diGenova


William H. Webster

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	
v.	:	88 Civ. 4486 (LAP)
	:	ACKNOWLEDGMENT OF RECEIPT
INTERNATIONAL BROTHERHOOD OF	:	OF THE OPINION AND
TEAMSTERS, <u>et al.</u>	:	DECISION OF THE
	:	INDEPENDENT REVIEW BOARD
	:	IN THE MATTER OF
Defendants.	:	JOHN CASTELLE
	:	

This Court hereby acknowledges that the Opinion and Decision of the IRB of Application 148 of the Independent Review Board ("IRB") for the International Brotherhood of Teamsters ("IBT") has been received by this Court, and that this Court has caused to be filed the original documents concerning the Opinion and Decision of Application 148 of the IRB with the Clerk of the Court of the Southern District of New York.

This Court further certifies that the instant Acknowledgment of Receipt ("the Acknowledgment") has been filed with the Clerk of the Court of the Southern District of New York, and that a copy of the Acknowledgment has been forwarded to the following:

John J. Cronin, Jr.
444 North Capitol Street, NW, Suite 528
Washington, DC 20001
Administrator of the Independent Review Board

Mr. John Castelle
8784 20th Avenue
Brooklyn, NY 112144
Respondent

Dated: New York, New York

_____, 2011

U.S.D.J.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	88 Civ. 4486 (LAP)
v.	:	AFFIDAVIT OF SERVICE
	:	
INTERNATIONAL BROTHERHOOD OF	:	
TEAMSTERS, <u>et al.</u>	:	
	:	
Defendants.	:	

Joseph D. Comtois hereby deposes and says:

1. I am the Assistant to the Administrator in the office of the Administrator of the Independent Review Board. On March 16, 2011, I caused to be delivered via UPS NEXT DAY to the Honorable Loretta A. Preska one executed original and one copy of Application 148, the executed original and one copy of the Opinion and Decision of the IRB, and the original and one copy of the Acknowledgment of Receipt.

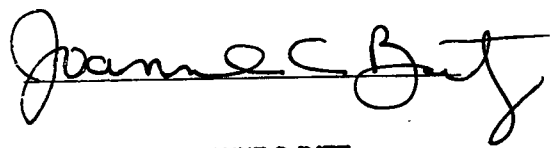
2. I also caused a copy of Application 148 along with the enclosures to be delivered to:

- Brian Feldman, AUSA, via UPS Next Day
- Charles M. Carberry, Esq., via UPS Next Day
- Bradley T. Raymond, Esq., via Hand Delivery
- John Castelle, Member Local 282, via UPS Next Day



Joseph D. Comtois

Sworn to and subscribed
before me this 16th day
of March 2011



JOANNE C. BATZ
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires March 14, 2012