

INDEPENDENT REVIEW BOARD  
444 North Capitol Street, NW, Suite 528  
Washington, DC 20001  
(202) 434-8080  
Facsimile (202) 434-8084  
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.

December 5, 2013

VIA UPS

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

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

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

Re: APPLICATION 166 OF THE INDEPENDENT REVIEW BOARD

Dear Judge Preska:

I transmit herewith one original and one copy of Application 166 of the Independent Review Board, submitting the Agreement regarding Sean O'Brien, 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:

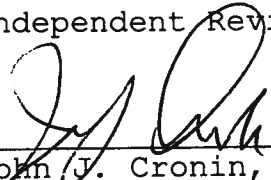
- (a) the December 5, 2013, Agreement approved by the IRB;
- (b) an Acknowledgment of Receipt; and
- (c) an Affidavit of Service.

If you find it appropriate, I respectfully request that a member of Your Honor's staff file the original Application, Agreement, 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

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)

Enclosures

cc: Tara M. La Morte, AUSA  
Charles M. Carberry, Esq.  
Bradley T. Raymond, Esq.  
Michael A. Feinberg, Esq.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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|                              |   |                          |
|------------------------------|---|--------------------------|
| UNITED STATES OF AMERICA,    | : |                          |
|                              | : |                          |
| Plaintiff,                   | : | 88 CIV. 4486 (LAP)       |
|                              | : |                          |
| v.                           | : | APPLICATION 166 OF THE   |
|                              | : | INDEPENDENT REVIEW BOARD |
|                              | : | -- AGREEMENT BETWEEN THE |
| INTERNATIONAL BROTHERHOOD OF | : | INDEPENDENT REVIEW BOARD |
| TEAMSTERS, <u>et al.</u>     | : | AND SEAN O'BRIEN         |
|                              | : |                          |
| Defendants.                  | : |                          |

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Pursuant to Paragraph O. of the Rules and Procedures for Operation of the Independent Review Board for the International Brotherhood of Teamsters ("IRB Rules"), the Independent Review Board ("IRB") files this Application submitting the Agreement with Sean O'Brien ("O'Brien"), International Vice President, Local Joint Council 10 and Local 25 President in Boston, Massachusetts. The Agreement has been approved by the IRB and is submitted to Your Honor for review and, if appropriate, to be entered as an order.

On October 17, 2013, the IRB issued an Investigative Report to IBT General President Hoffa recommending a charge against Sean O'Brien, International Vice President and the President and Principal Officer of Joint Council 10 and Local 25 for bringing reproach upon the IBT by threatening to retaliate against members for exercising rights protected under federal labor law and the

IBT Constitution, including the rights to seek election to office and support the candidate of one's choice.

On October 22, 2013, IBT General President James P. Hoffa informed the IRB that he determined to adopt and file the Charges against O'Brien and schedule a hearing. On October 24, 2013, before notice of a scheduled Hearing was issued, Mr. O'Brien submitted a signed agreement, which the IBT approved and forwarded to the IRB seeking to resolve the matter. The agreement, approved by the IRB, is enclosed.

This Application complies with former United States District Court Judge David N. Edelstein's February 2, 1994, Order stating that all IRB Agreements shall "contain a paragraph informing signatories that the agreement will be reviewed and may be rejected." The Agreement reached between the IRB and Sean O'Brien satisfies this procedure. One original and one copy of an Acknowledgment of Receipt are enclosed with this Application for execution by Your Honor.

Effective November 1, 2013 forward, Sean O'Brien has agreed to, a suspension, without pay, from all current positions held for a period of 14 days which will end on November 15, 2013. He has further agreed:

(1) that the suspension will not affect his membership and continuous good standing in Local 25, provided he pay dues covering that period and otherwise maintain his membership in good standing.

(2) that he will not be paid nor shall he accept, any

salary, gratuities, gifts, payments, allowances, fees, benefit payments or contributions or any other compensation of any kind whatsoever from Local 25, Joint Council 10 or IBT Entities, except that he may receive compensation or benefits which have accrued prior to November 1, 2013 including any fully vested pension, vacation and under any existing benefit plans or programs maintained or sponsored by Local 25.

(3) that he may receive payment for any salary or expenses incurred with his work on behalf of Local 25, Joint Council 10 and the IBT prior to November 1, 2013, in accordance with existing policy and procedure for each entity.

(4) that he will personally pay any contributions required to maintain his eligibility for health or other benefits under the applicable plans.

(5) that he will not participate in any manner in any of the activities or affairs of Joint Council 10, Local 25, or any other IBT entities for the period of his suspension.

We have found the Agreement serves to resolve the matter in a fair and equitable manner.

**Therefore**, we respectfully request that Your Honor execute the Agreement on the line provided. This will, in effect, serve to have the Agreement "so ordered" by the Court. Thereafter, it is respectfully requested that a member of Your Honor's staff file the fully executed original Agreement with the Clerk and transmit to me a confirmed copy of the Agreement as "so ordered."

Dated: December 5, 2013

-----X  
 In The Matter of :  
 : :  
 SEAN M. O'BRIEN : AFFIDAVIT AND AGREEMENT  
 :  
 Before the :  
 :  
 INDEPENDENT REVIEW BOARD :  
 :  
 -----X

COMMONWEALTH OF MASSACHUSETTS

COUNTY OF SUFFOLK ss.:

Sean M. O'Brien, being duly sworn, deposes, says, and agrees as follows:

1. On October 17, 2013, the Independent Review Board ("IRB"), appointed pursuant to the Consent Order entered March 14, 1989 in United States v. International Brotherhood of Teamsters, 88 Civ. 4486 (DNE) (SDNY) (the "Consent Order"), recommended that charges be filed against me for bringing reproach upon the IBT in violation of Article II, Section 2 (a) and Article XIX, Section 7 (b) (2 and (10) of the IBT Constitution by allegedly at a campaign event for the principal officer of Local 251 occurring in late August or early

September 2013 threatening retaliation against members supporting candidates running on a slate opposed to the Local 251 principal officer's slate. The General President subsequently adopted and filed these charges, without having made any judgments as to the underlying merits and indicated he would refer them to a Panel for a hearing.

2. I make this Affidavit and Agreement (the "Agreement") to resolve the IRB charges described in paragraph 1. This Agreement does not constitute an admission or denial of the wrongdoing alleged in the IRB charges.
3. I represent and agree to the following:
  - (a) I have been a member of the International Brotherhood of Teamsters ("IBT") and the IBT since 1991, and was first employed by Local 25 in 1999. I subsequently held various positions with the Local including Business Agent and Trustee. I am currently the President (and principal officer) of Local 25, the President of Joint Council 10 and an International Vice President. In addition, I serve as Trustee on several benefit funds that are affiliated with Local 25.

- (b) Other than the foregoing, I have held no other elected or appointed positions or offices with Local 25, Joint Council 10, the IBT or any of their affiliated entities, including any other locals, superior bodies, inferior bodies, conferences, councils, committees, divisions, pension, health, welfare or severance plans or other such entities (“IBT entities”).
4. I hereby agree that effective beginning on November 1, 2013, I will be suspended, without pay and benefits, from all of my current positions with Local 25, Joint Council 10, the IBT and the Local 25 affiliated benefit funds for a period of 14 days which will end on November 15, 2013. The suspension will not affect my membership and continuous good standing in Local 25, provided I pay dues covering that period and otherwise maintain my membership in good standing.
5. I hereby further agree that from November 1, 2013 and during the period of my suspension from office, neither Local 25, Joint Council 10, the IBT, nor any other entities affiliated with Local 25 or the IBT, shall pay me, nor shall I accept, any salary, gratuities, gifts, payments, allowances, fees, benefit payments or contributions or any other compensation of any kind, except that I may receive any




compensation or benefits which have accrued to me prior to November 1, 2013, including any fully vested or accrued (as of November 1, 2013) pension, vacation or other benefits under any existing benefit plans or programs maintained or sponsored by Local 25. In addition, I may receive payment for any salary or expenses I incurred in connection with my work on behalf of Local 25, Joint Council 10 and the IBT prior to November 1, 2013 in accordance with existing policies and procedures of each of those entities. For the period of my suspension, I will not receive any expense allowances and will be responsible for personally paying any contributions required to maintain my eligibility for health or other benefits under the applicable plans.

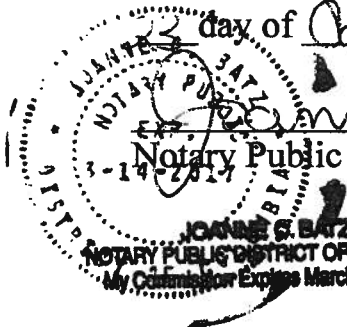
6. I hereby further agree that from November 1, 2013 and during the entire period of my 14 day suspension, I will refrain from any and all involvements in the affairs of Local 25, Joint Council 10, the IBT and affiliated entities, and cannot be appointed or hired as an employee or a consultant by any of them, whether in a paid or unpaid capacity.
7. I understand and agree that this Agreement will be submitted to the Independent Review Board ("IRB") for its review and approval. If approved by the IRB, it will be submitted to the United States District

Court for the Southern District of New York for review. I understand that if the Agreement is approved by the United States District Court for the Southern District of New York it will be entered as a Court order. I understand that no representations have been made as to whether this Agreement will be approved by the IRB or the United States District Court for the Southern District of New York. If this Agreement is not approved by the IRB or the Southern District of New York, this Agreement will be null and void.

8. I make this Agreement freely, under no duress or coercion of any kind.
9. I will transmit this Agreement, signed by me, to the IBT. When it is signed by the IBT and the IRB, it will be submitted to the Court for review.

  
Sean M. O'Brien

Sworn to before me this  
23 day of October 2013

  
Joanne S. Batz  
Notary Public  
My Commission Expires March 14, 2017

Witnessed

  
\_\_\_\_\_

AGREED:

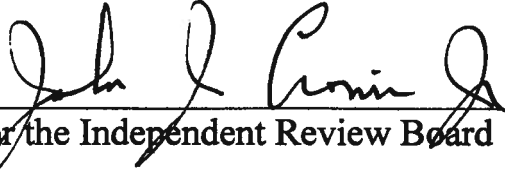
BRADLEY T. RAYMOND, General Counsel



\_\_\_\_\_   
 for the International Brotherhood of Teamsters

Dated: 10/23/13

APPROVED:



\_\_\_\_\_   
 for the Independent Review Board

Dated: 12/5/13

So Ordered:

\_\_\_\_\_   
 U.S. District Court Judge   
 Hon. Loretta A. Preska

Dated: \_\_\_\_\_

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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|                              |   |                           |
|------------------------------|---|---------------------------|
| UNITED STATES OF AMERICA,    | : |                           |
|                              | : |                           |
| Plaintiff,                   | : | 88 CIV. 4486 (LAP)        |
|                              | : |                           |
| v.                           | : | ACKNOWLEDGMENT OF RECEIPT |
|                              | : | OF APPLICATION 166 OF THE |
|                              | : | INDEPENDENT REVIEW BOARD  |
| INTERNATIONAL BROTHERHOOD OF | : |                           |
| TEAMSTERS, <u>et al.</u>     | : |                           |
|                              | : |                           |
|                              | : |                           |
| Defendants.                  | : |                           |

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This Court hereby acknowledges that Application 166 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 Application 166 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

Michael A. Feinberg, Esq.  
Feinberg, Campbell & Zack, P.C.  
177 Milk Street  
Boston, Massachusetts 02109  
Counsel for Respondent

Dated: \_\_\_\_\_, 2013  
New York, New York

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U.S.D.J.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

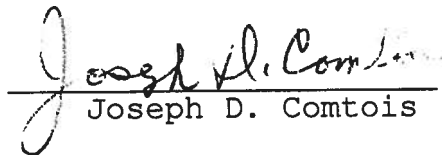
UNITED STATES OF AMERICA, :  
 :  
 :  
 Plaintiff, :  
 :  
 v. : 88 Civ. 4486 (LAP)  
 : AFFIDAVIT OF SERVICE  
 :  
 INTERNATIONAL BROTHERHOOD OF :  
 TEAMSTERS, et al. :  
 :  
 Defendants. :  
 :

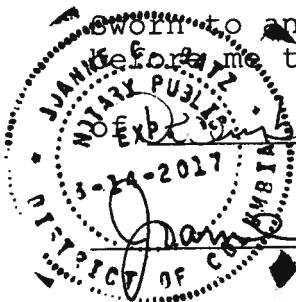
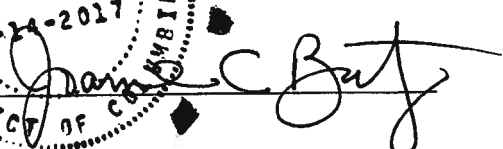
Joseph D. Comtois hereby deposes and says:

1. I am the Assistant Administrator in the office of the Administrator of the Independent Review Board. On December 5, 2013, I caused to be delivered via UPS NEXT DAY to the Honorable Loretta A. Preska one executed original and one copy of Application 166, the executed original and one copy of the Agreement between the IRB and Sean O' Brien, and the original and one copy of the Acknowledgment of Receipt.

2. I also caused a copy of Application 166 along with the enclosures to be delivered to:

- Tara La Morte, AUSA, via UPS Next Day
- Charles M. Carberry, Esq., via UPS Next Day
- ✓ Bradley T. Raymond, Esq., via Hand Delivery
- Michael A. Feinburg, Esq., via, UPS Next Day

  
Joseph D. Comtois

I swear to and subscribed  
to the foregoing this 5th day  
of January 2013  
  
  
JOANNE C. BATZ  
NOTARY PUBLIC DISTRICT OF COLUMBIA  
My Commission Expires March 14, 2017