

EXPRESS MAIL

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)
INVESTIGATIONS OFFICER,)
Claimant,)
-v-) CHARGE
TEAMSTER LOCAL NO. 191,)
Respondent.)
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You are hereby advised that the Investigations Officer has charged Teamster Local No. 191 with the violations listed below in accordance with the powers granted to him pursuant to Section F. (COURT APPOINTED OFFICERS), Paragraph 12(A) of the order entered in United States v. International Brotherhood of Teamsters, et al., 88 CIV. 4486 (DNE) (SDNY) on March 14, 1989. A copy of that order is enclosed.

The time and place for the hearing of this matter will be determined by the Independent Administrator, Frederick B. Lacey, and he will notify you accordingly.

Local 191 is charged as follows:

Charge 1

1. Violating Article II, § 2(a) of the International Brotherhood of Teamsters ("IBT") Constitution, by conducting itself in a manner to bring reproach upon the IBT; and
2. Violating Article XIX, § 6(b) by (i) proceeding in a manner inconsistent with its own Constitution and By Laws;

(ii) its executive board failing to perform its duties to the membership of the Local; and (c) members of the executive board embezzling the union's funds and property:

TO WIT, the officers of Local 191 have, since at least June 1986, failed to rectify the results of, and have participated in, schemes to defraud the membership of Local 191 of its funds and property. In addition the executive board has (i) failed to seek recovery from officers who have wrongfully obtained union funds and property under those schemes; (ii) failed to investigate breaches of fiduciary duties by officers and business agents of Local 191; and (iii) failed to commence disciplinary proceedings and other appropriate actions against Local 191 officers who have been instrumental in or profited from such fraudulent schemes and improper diversion of union property.

On or about June 27, 1986, Anthony G. Rosetti, then Secretary-Treasurer of Local 191, Mario J. Salvatore, then President and a Business Agent of Local 191, and Joseph Roberto, then Recording Secretary of Local 191, were indicted in the United States District Court for the District of Connecticut, in a criminal action entitled United States v. Anthony G. Rosetti, et al., Cr. No. N-86-30 (D. Conn.) (the "Indictment").

In the Indictment, Rosetti was charged with (i) obstruction of justice by falsifying records;

(ii) embezzlement of approximately \$24,000 from the Teamsters Local 191 Health and Insurance Plan (the "Plan") and embezzlement of approximately \$38,000 from the Local 191 and other Teamsters local health and insurance plans; and (iv) conducting a racketeering enterprise. Salvatore was charged in the Indictment with embezzling approximately \$5,000 from the Plan. Roberto was charged in the Indictment with embezzling approximately \$1,500 from the Plan.

While those charges were pending and the indicted Local 191 officials maintained their innocence of the charges to the membership, Rosetti, Salvatore, Roberto and other officers of Local 191 participated in a scheme to improperly funnel union monies under the guise of severance and other improper benefits to the officials who embezzled monies from the Plan. These payments were not for the benefit of the members of Local 191 and furthered no legitimate interests of the Local.

As part of this scheme, on or about August 9, 1986, six weeks after the Indictment, the executive board improperly caused and approved a pay raise for \$5,200 per year to Rosetti, who was then Secretary-Treasurer of Local 191 and charged in the Indictment with looting the Plan. On or about December 20, 1986, the executive board improperly caused and approved a second pay raise to Rosetti. This second raise, effective January 1, 1987, was for an additional \$5,200 per year. At the

same meeting of the executive board, Rosetti informed the executive board that he had given the other paid officers of Local 191, including his co-defendants Salvatore and Roberto, a pay raise of \$2,600 per year. The board participated in approving and accepting these pay increases knowing that they ultimately would increase severance benefits that might be payable to the indicted officers in the event of conviction of the charges in the Indictment and any subsequent bar from holding union office. In addition, this scheme of undeserved raises to indicted officials indirectly funded officers' subsequent restitution of embezzled funds.

In further efforts to reward Rosetti and other Local 191 officials for looting the Plan, on or about Saturday, April 4, 1987, the members of the executive board of Local 191 conducted "special" meetings of the board and the membership. Anthony Rosetti was excused from the meetings because he was consulting with his attorney. At the special meeting of the members one of the indicted officers, Mario Salvatore, gave a report to the members on the scheduled trials of the charges in the Indictment at which trials the charges would be contested. Immediately after this report, a motion was passed providing for severance payments to "any paid officer forced to leave his job other than by loss of an election." In addition, a motion was unanimously passed "reaffirming" a previous motion that entitled "any paid officer with either 9 years service or three

consecutive terms" to purchase for one dollar the union automobile assigned to him. These motions were not for the benefit of the members of Local 191 and served no legitimate interests of the Local. Their purpose was solely to provide Rosetti and the other indicted officials of Local 191 who would be convicted of the charges resulting in debarment from union office with additional severance payments.

By a plea agreement filed less than a week later, on April 10, 1987, Rosetti agreed to, and subsequently did, plead guilty to the embezzlement of approximately \$16,800 from the Plan, a violation of 18 U.S.C. § 664. On or about April 24, 1987 Rosetti was sentenced by the district court to two years' imprisonment, suspended after three months and three years' probation on the condition that he make restitution to the Plan of the \$24,000 he had embezzled. He was also barred from holding union office by the district court for a period of eight years. A judgment of conviction was filed on May 1, 1987. Approximately eleven days later, on or about May 12, 1987, members of the Local 191 executive board, including Rosetti's co-defendants Roberto and Salvatore, permitted and caused to be paid to Rosetti approximately \$33,000 in severance benefits and approximately \$11,000 in vacation pay. The so-called severance payment was calculated in accordance with the motion passed at the April 4, 1987 "special" meeting.

Approximately nine days later, in a plea agreement filed May 21, 1987, Roberto agreed to, and subsequently did, plead guilty to a violation of 29 U.S.C. § 1311 for aiding and abetting the willful failure to keep and maintain accurate and complete Plan records. As part of his plea agreement, Roberto agreed to make restitution of the \$1,500 he had embezzled. The next day, by a plea agreement filed May 22, 1987, Salvatore agreed to, and subsequently did, plead guilty to two counts charging violation of 29 U.S.C. § 1311 for aiding and abetting the willful failure to keep and maintain accurate and complete Plan records. As part of his plea agreement, Salvatore agreed to make restitution of the \$5,000 he had embezzled.

Approximately two weeks later, on or about June 8, 1987, members of the Local 191 executive board, including Rosetti's co-defendants Salvatore and Roberto, caused Local 191 to sell to Rosetti for one dollar a 1987 Cadillac Eldorado, purchased by Local 191 only six months before for \$31,669. The same day, Rosetti resigned his union office.

None of the payments and financial rewards given to Rosetti were for the benefit of the membership of Local 191 or served any legitimate interest of the Local, but instead were solely for the personal benefit of Rosetti, an admitted thief of Plan funds. These payments and benefits were conferred upon Rosetti despite the Board's knowledge that Rosetti had been charged with labor racketeering and embezzlement of Plan funds,

had admitted his guilt to embezzlement charges, and was sentenced by the district court to two years' imprisonment, suspended after three months, three years' probation on the condition that he make restitution to the Plan of \$24,000 and that Rosetti was barred by the district court from holding union office for a period of eight years.

In breach of its fiduciary obligations to the members, the executive board has taken no action to recover any of the union assets improperly funneled to Rosetti under the "severance" scheme. It has not sought by any means the disgorgement from Rosetti of any of the undeserved pay raises totalling approximately \$10,400 or any of the \$44,000 in alleged "severance" and vacation pay given to Rosetti under the fraudulent severance scheme. In addition, the Board has never sought to recover from Rosetti the \$36,000 car, or its value, given to Rosetti in the sham one dollar "sale" after Rosetti had already admitted his guilt to embezzlement.

The executive board has also failed to take any disciplinary action of any kind against Rosetti's co-defendants Roberto and Salvatore for their participation in the establishment of the fraudulent severance scheme that resulted in the improper transfer of approximately \$90,000 in union monies and assets to Rosetti, for their admitted participation in the falsification of Plan records or for their embezzlement of Plan funds. Nor has the Board sought to recover from

Salvatore and Roberto the undeserved and improper raises given to them by Rosetti when both officers were under indictment along with Rosetti and all three subsequently pleaded guilty to charges arising out of the Indictment, or from the other Board members who received increases from Rosetti in return for their approval of his \$5,200 increase.

Charge 2

1. Violating Article XIX, § 6(b) of the IBT Constitution, by engaging in conduct that interfered with and was disruptive of Local 191's legal obligations, and failing to act with respect to such conduct:

TO WIT, Local 191 has filed and caused to be filed false and misleading Labor Organization Annual Reports (Form LM-2) with the United States Department of Labor. These false Form LM-2s were designed to defraud the Department of Labor and the members of Local 191. The 1987 Form LM-2 and the 1988 Form LM-2, signed by the Secretary-Treasurer of Local 191, each failed to disclose that full-time paid union officers were paid lump sum executive board allowances of \$2,000 (1987) and \$2,500 (1988) per year, in addition to salary. Furthermore, the 1988 Form LM-2 falsely reported the amounts of expenses reimbursed to paid officers of Local 191, as follows:

| <u>Officer</u> | <u>Expenses Reported</u> | <u>Actual Reimbursed Expenses</u> |
|-------------------|--------------------------|-----------------------------------|
| Joseph M. Roberto | \$3,126.00 | \$20,694.93 |
| Robert Jones | \$4,754.00 | \$ 9,461.76 |
| Joseph Bennetta | \$4,673.00 | \$27,555.82 |
| Mario Salvatore | \$2,088.00 | \$22,238.89 |

WHEREFORE, the Investigations Officer requests the Administrator, pursuant to Article VI, § 2 and Article XIX, § 9 of the International Brotherhood of Teamsters Constitution, to (i) declare the motions passed at the special meeting held April 4, 1987 relating to the severance scheme, including the earlier resolution "affirmed" at that meeting, to be void as fraudulent and violative of the IBT Constitution and the Constitution and By Laws of Local 191; (ii) order the executive board to take any and all lawful actions to recover from Anthony G. Rosetti the value of the union assets improperly given to him under the fraudulent severance schemes, including his improper salary increases, severance and vacation pay paid to him, and the value of the car given to him for one dollar; (iii) take any and all steps necessary, including internal disciplinary proceedings, pursuant to Article XIX, §§ 6-9 of the IBT Constitution and Article XXII, § 2 and Article XXIII, §§ 1-4 of the Constitution and By Laws of Local 191, to prohibit Anthony G. Rosetti from resuming office in Local 191 on the expiration of the debarment from union office to which he was sentenced by the district court; (iv) order the

restitution to Local 191 of the value of the pay raises given to the other members of the executive board by Rosetti on or about December 20, 1986 as a quid pro quo for the approval by them of his own \$5,200 per year pay raise; (v) order Local 191 to file amended and accurate Form LM-2s for the years 1987 and 1988 and (vi) any such other orders or relief as the Administrator determines just and appropriate in this proceeding.

Very truly yours,

Charles M. Carberry
Charles M. Carberry
Investigations Officer
599 Lexington Avenue
New York, New York 10022
(212) 326-3920

Dated: New York, New York
January 10, 1990

cc: Frederick B. Lacey, Esq.
James T. Grady, Esq.
Edward T. Ferguson, Esq.

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