
In Re:

INVESTIGATIONS OFFICER,

Claimant,

v.

CHARLES L. O'BRIEN,

Respondent.

DECISION OF THE
INDEPENDENT ADMINISTRATOR

This matter involves four charges filed by the Investigations Officer, Charles M. Carberry, against Charles L. O'Brien ("O'Brien"). O'Brien is an IBT International Organizer assigned to the Southern Conference of Teamsters in Hallandale, Florida. Charges I, II and III were filed on September 13, 1989, and Charge IV was filed on May 24, 1990. A hearing was held before me on these charges on August 27, 1990, and post-hearing submissions have been received. O'Brien appeared pro se. Having reviewed the evidence and the post-hearing submissions, I find that the Investigations Officer has carried his burden of proving all four charges.

I. THE CHARGES

There are four separate charges at issue. All four allege that O'Brien violated Article II, Section 2(a) of the International Brotherhood of Teamsters Constitution by conducting himself in a manner to bring reproach upon the International Brotherhood of Teamsters.

A. Charge I

Specifically, the Investigations Officer charged O'Brien with:

[U]nlawfully and wilfully receiving and accepting an automobile from an employer, which conduct was the basis for his conviction on October 21, 1976 for violating Title 29, United States Code, Section 186 in the United States District Court for the Eastern District of Michigan, Southern Division, 76-80965.

B. Charge II

Next, O'Brien was charged with:

[M]aking a materially false statement on a loan application submitted to a federally insured bank, which conduct formed the basis for his conviction on April 27, 1978 in violation of Title 18, United States Code, Section 1014 on counts I and II of Indictment, 77 Cr. 81349 in the United States District Court for the Eastern District of Michigan, Southern District.

C. Charge III

The Investigations Officer has also charged O'Brien with:

[K]nowingly associating with Anthony Giacalone, Sr., Jack Tocco, Anthony Joseph Tocco, Anthony Zerilli, Anthony Corrado, Vito Giacalone, Michael Polizzi, Carlos Marcello and Anthony Provenzano, members of La Cosa Nostra, from January 1, 1974 to the present.

D. Charge IV

Pursuant to Charge IV, O'Brien was charged with not only [v]iolating Article II, Section 2(a) of the International Brotherhood of Teamsters constitution by conducting [himself] in a manner to bring reproach upon the International Brotherhood of Teamsters, but also violating Article XIX, §6(b) of the IBT Constitution by embezzling and converting to [his] own use and the

use of other's union funds. Specifically, O'Brien was charged with:

[K]nowingly incurring unauthorized charges on the American Express card account of Teamsters Local 769 in the amount of approximately \$12,187 to charter a private Lear jet.

II. THE IBT CONSTITUTIONAL PROVISIONS AT ISSUE

The Charges against O'Brien implicate the following two provisions of the IBT Constitution:

A. Article II, Section 2(a), which provides:

Any person shall be eligible to membership in this organization upon compliance with the requirements of this Constitution and the rulings of the General Executive Board. Each person upon becoming a member thereby pledges his honor: to faithfully observe the Constitution and laws of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, and the By-laws and laws of his Local Union; to faithfully perform all the duties assigned to him to the best of his ability and skill; to conduct himself or herself at all times in such a manner as not to bring reproach upon the Union [emphasis supplied]

B. Article XIX, Section 6 (b)¹, which provides:

The basis for charges against members, officers, elected Business Agents, Local Unions, Joint Councils or other subordinate bodies for which he or it shall stand

¹ At a November 1, 1989, special meeting of the IBT's General Executive Board ("GEB") a resolution was adopted purporting to review and interpret certain provisions of the IBT Constitution, including Article XIX, Section 6(b). In a decision dated January 11, 1990, in the matter of Investigations Officer v. Friedman and Hughes, I rejected the GEB's interpretation as unreasonable. United States District Judge David N. Edelstein endorsed and approved my ruling in his Opinion and Order dated March 13, 1990. U.S. v. International Brotherhood of Teamsters, 735 F.Supp. 506 (S.D.N.Y. 1990). In an Opinion dated June 1, 1990, the United States Court of Appeals for the Second Circuit affirmed Judge Edelstein's March 13, 1990, ruling. U.S. v. International Brotherhood of Teamsters, 905 F.2d 610 (2d Cir. 1990).

trial shall consist of, but not be limited to, the following:

- (1) Violation of any specific provision of the Constitution, Local Union By-laws or rules of order, or failure to perform any of the duties specified thereunder.
- (2) Violation of oath of office or of the oath of loyalty to the Local Union and the International Union.
- (3) Embezzlement or conversion of union's funds or property.
- (4) Secession, or fostering the same.
- (5) Conduct which is disruptive of, interferes with, or induces others to disrupt or interfere with, the performance of any union's legal or contractual obligations. Causing or participating in an unauthorized strike or work stoppage.
- (6) Disruption of Union meetings, or assaulting or provoking assault on fellow members or officers, or failure to follow the rules of order or rulings of the presiding officer at meetings of the Local Union, or any similar conduct in, or about union premises or places used to conduct union business.
- (7) Crossing an authorized primary picket line established by the member's Local Union or any other subordinate body affiliated with the International Union.

III. THE MERITS OF CHARGES I AND II

A. The Contentions of the Parties

In support of Charges I and II, the Investigations Officer introduced into evidence original certified copies of the two judgment and commitment orders regarding O'Brien entered on January 27, 1977, and April 25, 1979, respectively, in the United States

District Court for the Eastern District of Michigan. IO-2A, E1 and E2.

O'Brien does not dispute the facts underlying Charges I and II. In fact, in his December 14, 1990, post-hearing memorandum, p. 5, O'Brien states as follows:

[I] was convicted of having accepted a 1974 Chevrolet from an organized employer (Charge I) and of having misrepresented the amount of [my] salary and the value of certain real estate in papers [I] submitted to a federally insured bank in connection with an application for a loan to finance the purchase of a new home (Charge II).

The underlying events occurred in 1973. The trials and convictions occurred in 1976 and 1978. Concurrent one-year sentences were imposed, and [I] served less than a year in federal prison. [I] view[ed] and will always view these proceedings as unjust products of a politically motivated campaign by the government, but two facts remain unchallengeable: [I] was convicted of the two offenses

O'Brien raises two contentions in defense to Charges I and II. Both are without merit.

O'Brien contends that his convictions are "time barred under Section 6(a) of Article XIX of the IBT Constitution" and maintains that the March 14, 1989, Consent Order is invalid and that the Independent Administrator has no power to act in this situation.

Taking these contentions in order -- that the charges are time barred is an argument that has been previously made and rejected. See Investigations Officer v. Friedman, et al., Opinion of the Independent Administrator (September 29, 1989), aff'd, United States v. IBT, 725 F. Supp. 162 (S.D.N.Y. 1990), aff'd, United States v. IBT, 905 F.2d 610 (2d. Cir. 1990). As stated by United

States District Judge David N. Edelstein in United States v. IBT,
725 F. Supp. 162, 166:

I find that the plain language of ¶D.5 taken together with the spirit and intent of the Consent Decree as a whole, support the Independent Administrator's conclusion that the Court Officers are bound by no statute of limitations.

While the passage of time may be a consideration in deciding the penalty to be imposed, it does not alter the fact that O'Brien was twice convicted of federal offenses and that these convictions bring reproach upon the IBT.

O'Brien's second argument, that the Consent Decree is invalid and that the Independent Administrator has no authority to hear and decide disciplinary charges, has also been already decided. As stated by Judge Edelstein:

[T]o argue that it is unfair to bind [a Respondent] or any other IBT member ... to the scheme created by the Consent Decree changes to the IBT Constitution is simply ludicrous.
[United States v. IBT, 725 F. Supp. 162, 169.]

Both convictions, standing alone, bring reproach upon the IBT. Charge I involves direct abuse of O'Brien's station in his Union. Charge II, although not implicating the Union directly, involves a misstatement of O'Brien's salary for personal gain. Such wrongdoing by a Union official taints the IBT.

There is no dispute as to the facts underlying Charges I and II, and I find no merit to O'Brien's defenses. Accordingly, I conclude that the Investigations Officer has carried his burden of proving these two charges.

IV. THE MERITS OF CHARGE III

The Investigations Officer, under this charge, alleged that O'Brien "knowingly associated" with the following nine members of La Cosa Nostra from, at least, January 1, 1974 to the present: Anthony Giacalone Sr., Jack Tocco, Anthony Joseph Tocco, Anthony Zerilli, Anthony Corrado, Vito Giacalone, Michael Polizzi, Carlos Marcello, and Anthony Provenzano.

A. The Investigations Officer's Proofs

1. The Declaration of Robert J. Garrity

At the hearing, the Investigations Officer introduced, as Investigations Officer's exhibit, Ex.1, the sworn declaration of Robert J. Garrity (the "Garrity Declaration"). Agent Garrity is a special agent assigned to the Bureau's Pittsburgh Division, has been a special agent of the Federal Bureau of Investigation ("FBI") for more than 18 years and is currently the supervisor of the Pittsburgh Division Organized Crime Squad. Garrity Declaration ("IO-1"), ¶1. During the period March 1973, through May 1978, Garrity was assigned to the organized crime squad of the FBI's Detroit Division. Ibid. Garrity has been actively involved in hundreds of criminal investigations concerning the illegal activities of La Cosa Nostra members and associates. Id., ¶ 2. He is knowledgeable about FBI criminal investigations involving the Detroit and other La Cosa Nostra families, and the intelligence information gathered by the FBI regarding La Cosa Nostra criminal activity. Ibid. As a supervisory special agent, Garrity has had

extensive experience in the use of law enforcement investigative techniques such as physical surveillance, electronic surveillance, confidential informants, cooperating witnesses, underground operations and execution of search and arrest warrants, and investigative interviews. Ibid. Garrity has also testified in numerous criminal prosecutions and hearings involving La Cosa Nostra members and associates, and has lectured about La Cosa Nostra organized crime at the FBI academy in Quantico, Virginia. Ibid.

While assigned to the FBI's Detroit Division, Garrity was the case agent responsible for the FBI investigation into the abduction and presumed murder of former IBT General President James Hoffa ("Hoffa"). IO-1, ¶ 8. In the course of that investigation, Garrity interviewed O'Brien on August 6, 1975, and August 18, 1975, concerning O'Brien's knowledge about the Hoffa disappearance and about O'Brien's relationship with the Detroit Organized Crime Family of La Cosa Nostra. Id., ¶ 8.

Agent Garrity also interviewed Jeffrey L. Schultz, Executive Vice President of the South Field Athletic Club, on August 5, 1975, in connection with the Hoffa disappearance. Agent Garrity also interviewed Louis C. Lintean on August 4, 1975, concerning his knowledge of Hoffa's disappearance.

As O'Brien made no challenge to Agent Garrity's credentials, and given Agent Garrity's extensive background and experience, I except him as an expert knowledgeable in the investigation into

organized crime and the structure of organized crime specifically in the Detroit, Michigan area.

2. The Declaration Of Samuel J. Ruffino, Jr.

The Investigations Officer also introduced, as Investigations Officer Ex. 2, the sworn Declaration of Samuel J. Ruffino, Jr. (the "Ruffino Declaration"). Agent Ruffino is a special agent assigned to the FBI organized crime squad, Detroit Division, and has been a special agent for over 14 years. Agent Ruffino has been assigned to the Detroit organized crime squad since 1978. Ruffino Declaration ("IO-2") ¶ 2. During that time, he has been involved in hundreds of criminal investigations concerning the illegal activities of La Cosa Nostra members and associates. Ibid. He is familiar with FBI criminal investigations involving La Cosa Nostra members and associates, and intelligence information gathered by the FBI regarding La Cosa Nostra activities. Id., ¶ 2. In his work at the FBI's Detroit office, Ruffino has been involved in numerous criminal investigations concerning illegal activities of members and associates of La Cosa Nostra families operating in the state of Michigan. Ibid. Ruffino is also thoroughly experienced in the various investigative techniques used by the FBI investigating organized crime. Ibid. During his 12 years of experience of investigating organized crime, Ruffino has interviewed, met, observed, arrested and conducted surveillances of numerous members and associates of La Cosa Nostra. Ibid. Ruffino

has also testified in several criminal prosecutions and hearings involving La Cosa Nostra members and associates. Ibid.

Given Ruffino's extensive background and experience, I accept him as an expert knowledgeable in the investigation and structure of organized crime in the Detroit, Michigan area. O'Brien made no challenge to Agent Ruffino's credentials.

V. THE ORGANIZED CRIME CONNECTIONS OF O'BRIEN'S ALLEGED ASSOCIATES

As noted, at the outset, the Investigations Officer charged that O'Brien associated with the following nine members of organized crime families of La Cosa Nostra: Anthony Giacalone Sr., Jack Tocco, Anthony Joseph Tocco, Anthony Zerilli, Anthony Corrado, Vito Giacalone, Michael Polizzi, Carlos Marcello, and Anthony Provenzano. Through the Ruffino and Garrity Declarations, evidence was introduced which supports the conclusion that eight of these nine individuals are members of La Cosa Nostra.² IO-2, ¶ 16(a) through (g), ¶ 23. See also IO-1, ¶ 8. The Declarations are also well supported elsewhere in the record. For instance, Jack Tocco, Anthony Zerilli, Michael Polizzi, Anthony Corrado, Anthony Giacalone, Vito Giacalone and Anthony Tocco were all identified as members in the Detroit hierarchy of the Detroit family of La Cosa Nostra before the Permanent Subcommittee on Investigations of the United States Senate during hearings entitled "Organized Crime: 25 Years after Valachi," (the "Senate Subcommittee"). IO-2, ¶ 18.

² Carlos Marcello is not identified as a member of La Cosa Nostra in either the Ruffino or Garrity Declarations.

See also IO-2A(A). During the Senate Subcommittee hearings proof was offered depicting the hierarchy of the Detroit family as it existed in 1987. That proof identifies Jack Tocco as the boss, Anthony Zerilli as the under boss, Michael Polizzi as a capo, Anthony Corrado as a capo, Anthony Giacalone as a capo, Vito Giacalone as a capo, and Anthony Tocco as a capo. IO-2A(A).

Anthony Provenzano was also identified by the Senate Subcommittee as a member of the Genovese Organized Crime Family of La Cosa Nostra. Ruffino identified Provenzano as a member of the Genovese Organized Crime Family of La Cosa Nostra until his death in federal prison in 1988. See also Investigations Officer v. Andrew Reynolds, Decision of the Independent Administrator (April 11, 1991), p. 7. As explained in Investigations Officer v. Reynolds, p 7, n. 7, "(a) (made) member of La Cosa Nostra must remain a member until his death." Ruffino Declaration, ¶ 23. Provenzano was incarcerated for murdering a Local Union member and for extortion and criminal conspiracy in connection with a kickback to a trustee of an IBT Benefit Fund. Id., ¶ 23.

Given the corroborating evidence offered by the Investigations Officer, I find that he has established that eight out of the nine individuals identified as O'Brien's associates are members of La Cosa Nostra.

VI. O'BRIEN'S ASSOCIATION WITH MEMBERS OF ORGANIZED CRIME

O'Brien indicates that he was associated with James R. Hoffa ("Hoffa"), former IBT General President, and his family for most of

the first four decades of his life and that Hoffa raised him as a "foster" son and trained him as a Union Business Agent and Organizer. O'Brien Post-Hearing Memorandum ("O'Brien Memo"), ¶ 10. As a result of his association with Hoffa, O'Brien indicated that, while an IBT officer, he met and associated with friends of the Hoffa family and individuals with whom Hoffa associated. O'Brien admits that he "was associated with most of the reputed organized crime figures listed by the Investigations Officer by virtue of his association with James R. Hoffa." Id., p. 10.

A. Anthony Giacalone

In his November 16, 1988, deposition in the underlying action, United States v. IBT, 88 Civ. 8846 DNE (S.D.N.Y. 1988), O'Brien indicated that he met Anthony Giacalone, Sr. through Hoffa. O'Brien deposition ("O'Brien Dep."), p. 48. O'Brien stated that he used to call him "Uncle Tony." Id., p. 49.

O'Brien met Giacalone on several occasions. In an FBI interview taken on August 6, 1975 (IO-1A(A)), O'Brien stated that he met Giacalone on the day of Hoffa's disappearance to say goodbye to him because he would be transferring to the Southern Conference of Teamsters and would not see him for some time. IO-1A(A), p. 271. O'Brien also admitted having dinner with Giacalone and his wife on August 1, 1975. IO-1A(A), p. 276. O'Brien also stated that on August 2, 1975, he had a telephone conversation with Giacalone wherein they agreed to meet at the Southfield Athletic Club to get hair cuts and manicures. Id., p. 276. In a second FBI

interview (August 18, 1975, (IO-1A(B))), O'Brien stated that he met Giacalone during the morning of August 1, 1975, at Joey Giacalone's apartment and informed him that Hoffa's son, James Philip Hoffa ("JP Hoffa"), would like to talk to Giacalone. Id., p. 184.

The Investigations Officer also offers the FBI interviews of Louis Linteau (IO-1A(D)) and Jeffrey Schultz (IO-1A(C)) to show the relationship between Giacalone and O'Brien. Jeffrey Schultz, the owner of the Southfield Athletic Club, corroborated an admission of O'Brien. During his FBI interview, Schultz stated he saw Giacalone and O'Brien together on August 2, 1975, at the Southfield Athletic Club and that they left together. IO-1A(C), p. 182. O'Brien also indicated that he introduced Louis Linteau to Giacalone in an effort to help Giacalone sell his apartment in Florida to Linteau. IO-1A(B), p. 185. This is corroborated by Linteau in his interview wherein Linteau indicated that he was approached by O'Brien in connection with the sale of Giacalone's condominium in Bay Harbor, Florida. IO-1A(D), pp. 48-49. Linteau indicates that he subsequently purchased the condominium. Id., p. 49. Linteau further stated that Giacalone mentioned to him that O'Brien owed Giacalone a significant sum of money and Giacalone did not know if O'Brien would be able to repay it. Ibid.

The Investigations Officer also offers an FBI memorandum dated February 21, 1979, that indicates that O'Brien was seen in Joe Sonken's restaurant in Hollywood, Florida on January 11, 1979, conversing with Tony Giacalone. IO-4.

In addition, the Investigations Officer offers the information provided to the FBI as a confidential informant by former IBT General President Jackie Presser. IO-5 and IO-6. Presser stated that in January 1978, Frank Fitzsimmons, then IBT President, was contacted by Giacalone and was advised that Giacalone needed \$250,000. IO-6, p. 5. Presser stated that Giacalone advised Fitzsimmons that he had Hoffa killed, and that since he had taken care of Fitzsimmons' arch rival, it was proper for Fitzsimmons to pay him. Id., p. 6. Further, Presser stated that when Fitzsimmons did not pay, Giacalone sent O'Brien who contacted Fitzsimmons and told him that Giacalone wanted \$250,000. Ibid.

When questioned before me as to whether the information he provided to the Government relative to Giacalone was accurate, O'Brien stated that, "[m]y testimony on this particular day was honest and truthful relative to Giacalone" Tr., pp. 189-190.

B. Jack W. Tocco

In his 1988 deposition in response to the question, "who is Jack Tocco," O'Brien testified that "Jack Tocco is a personal friend of mine." He is "an official of Hazel Park Racetrack." O'Brien Dep., pp. 136-137. O'Brien further indicated that he had seen Tocco "a couple of years ago maybe. I went to a wedding and [Tocco] was there with family." Id., p. 138. He also stated that, "I may have saw (sic) him at a charity golf outing, but I think it was two or three years ago . . . in Florida." Ibid. O'Brien also

confirmed the truthfulness of his 1988 deposition statements regarding Tocco. Tr., p. 190.

C. Anthony Joseph Tocco

In his deposition, when asked if he knows Anthony Tocco, O'Brien stated that, "I sure do . . . I know his wife, his family." O'Brien Dep., p. 142. O'Brien also indicated before me that his deposition testimony was accurate regarding Anthony Tocco. Tr., p. 190.

D. Anthony Zerilli

O'Brien, in his 1988 deposition, admitted that Anthony Zerilli "was a friend of mine." O'Brien Dep., p. 138. He knew Zerilli as "an individual who is part of the Hazel Park Racetrack Corporation." Id., p. 138. O'Brien further admitted that he has known Zerilli "a long time," and that they met "[b]ack when [he] was a young person." Ibid. He met Zerilli in military school. Id., p. 139. O'Brien also stated that as an officer of the Racetrack, Zerilli negotiated contracts with the IBT. Id., p. 140. As noted, when asked at the hearing before me if his deposition testimony was truthful concerning Zerilli, O'Brien indicated that it was. Tr., p. 190.

E. Anthony Corrado

As for Anthony Corrado, O'Brien testified that "Anthony Corrado is a friend of mine, his brother, Dominick, was a friend of

mine . . . I have known them back when we were young, young kids." O'Brien Dep., p. 140. When asked how he met Corrado, O'Brien replied, "[j]ust through family relationship of meeting him, that was it." Id., p. 141. O'Brien also indicated that Corrado was "part of the racetrack." Ibid.

At the hearing, O'Brien affirmed that his deposition testimony regarding Corrado was "honest and truthful" on the day it was taken. O'Brien Dep., p. 190.

F. Vito Giacalone

Turning now to Anthony Giacalone's brother, Vito "Billy Jack" Giacalone, O'Brien indicated in his deposition that he knows Vito, his family and his children, but that he does not know what he does for a living despite knowing him since they were both young men. O'Brien Dep., p. 141.

When questioned by the FBI about meetings between Hoffa and Vito Giacalone on August 6, 1975, O'Brien informed the FBI that he had learned from JP Hoffa that a meeting had taken place between Hoffa (JP's father) and the two Giacalones on July 3, 1975. IO-2A(F), p. 278.

In a separate FBI interview occurring on August 4, 1975, Linteau admitted setting up meetings between Hoffa and Anthony Giacalone and indicated that he had been told by JP Hoffa that a neighbor observed Anthony and Vito Giacalone at the Hoffa residence in July of 1975. IO-1A(D), p. 48. O'Brien indicated in his 1988

deposition that his testimony regarding Vito Giacalone was truthful. O'Brien Dep., p. 190.

G. Michael Polizzi

Moving on, O'Brien admitted in his deposition that he knows Michael Polizzi and that he has known him since he was a young man. O'Brien Dep., p. 142. Once again, before me at the hearing, O'Brien stated that his deposition testimony regarding Polizzi was "honest and truthful." Tr., p. 190.

H. Carlos Marcello³

Carlos Marcello is not an admitted associate of O'Brien. In his deposition, O'Brien invoked his Fifth Amendment privilege against self-incrimination when questioned about Marcello. O'Brien Dep., pp. 55-56, 71, 80-81.

Specifically, O'Brien invoked the Fifth Amendment when asked the following questions:

1. Do you know an individual named Carlos Marcello?
2. Have you ever discussed with Mr. Marcello any matter involving the IBT or any of its affiliates?
3. Have you ever discussed with Mr. Marcello any aspect of your job or jobs with the IBT?
4. Did Carlos Marcello ever attempt to bribe Partin to recant his testimony against Mr. Hoffa?

³ The Investigations Officer has not proven to my satisfaction that Marcello is a member of La Cosa Nostra. However, as O'Brien exercised his Fifth Amendment privilege when questioned about Marcello in his 1988 deposition, and O'Brien was charged with "knowingly associating" with Marcello by the Investigations Officer, I have included evidence that concerns Marcello.

5. Have you ever taken any money or thing of value from Carlos Marcello?
6. Did you ever assist Carlos Marcello in any way in attempting to bribe Mr. Partin to recant his testimony against Hoffa?
7. Did you ever carry any money from Carlos Marcello to Partin in an attempt to get Partin to recant his testimony?
8. Was Carlos Marcello ever a member of La Cosa Nostra?
9. Has James Riddle Hoffa ever had any discussions with Carlos Marcello?

At the hearing before me, I gave O'Brien the opportunity to withdraw his Fifth Amendment plea to the above questions. His answers to the same questions, given by way of post-hearing submission, were as follows:

1. No.
2. No.
3. No.
4. No.⁴
5. No.
6. No.
7. No.
8. I don't know.
9. I don't know.

⁴ An inconsistency in O'Brien's testimony is present. O'Brien denies knowing Carlos Marcello (see, #1. above), yet answers "no" to question #4. If O'Brien does not know Carlos Marcello, he could not know that Carlos Marcello never attempted to bribe Partin to recant his testimony against Hoffa.

I. The Late Anthony Provenzano

O'Brien indicated in his deposition that "yes, I know 'Tony Pro.'" O'Brien Dep., p. 54. He states further that he has known him for over twenty years (met in 1950's) and that he knows his wife, Marie, and their three daughters. Id., p. 54. Once again, at the hearing, O'Brien indicates that his deposition testimony was honest and truthful with regard to Provenzano. Tr., p. 190. However, when asked if Provenzano was ever a member of LCN, O'Brien first invoked the Fifth Amendment during his deposition, then stated "I don't know" in his post-hearing submissions.

The Investigations Officer also offered some material provided in July of 1977 to the FBI by Jackie Presser to show the relationship between Provenzano and O'Brien. IO-5, p. 6. Presser indicated that he was aware of an organized crime connection between the Giacalones and Provenzano and that O'Brien acted as a go-between for Provenzano, Giacalone and a certain IBT official who was controlled by them. Id., p. 6.

Further, in his August 6, 1975, FBI interview, O'Brien, displaying his knowledge of the Hoffa-Provenzano relationship, indicated that the alleged rift between Provenzano and Hoffa was newspaper talk only. IO-1A(A), p. 278. Moreover, O'Brien indicated that Mrs. Hoffa would visit Mrs. Provenzano in New Jersey while Provenzano and Hoffa were together in prison. Id., p. 278. O'Brien also told the FBI that the last time Provenzano was in Detroit was in 1961 for the wedding of Hoffa's sister, Barbara. Ibid.

J. O'Brien's Other Associations

While O'Brien was not specifically charged by the Investigations Officer with "knowingly associating" with Anthony Lapiana, evidence appeared in the record concerning a relationship between Lapiana and O'Brien. Anthony Lapiana is identified by Agent Ruffino as a member of the Detroit Organized Crime Family of La Cosa Nostra. IO-2, ¶ 16(i). Agent Ruffino testified at the hearing before me that Lapiana's name did not appear on the 1987 Senate Chart depicting the hierarchy of the Detroit Family of La Cosa Nostra because Lapiana is merely a member and not a "capo" or "street boss." Tr., pp. 40-41. In his deposition, O'Brien states that Lapiana is his "very dear friend" and that he knows him "[a] very long time." O'Brien Dep., p. 148. O'Brien adds that Lapiana "is a very honest individual, straightest person you could ever meet in your life. No nonsense." Id., p. 148.

At the hearing, O'Brien testified as to the truthfulness of his deposition testimony regarding Mr. Lapiana (Tr., p. 190), and added that he talks to Lapiana "four, five, six time a week." Id., p. 190.

Also not identified on the 1987 Detroit La Cosa Nostra hierarchy chart is Vincent Melli, Lapiana's father-in-law. However, Melli is also considered by the FBI as a member of the Detroit Family of La Cosa Nostra. See Testimony of Agent Ruffino, Tr., pp. 40-41. See also ¶ 16(h) of the Ruffino Declaration. In corroboration of Agent Ruffino's testimony, the Investigations Officer offered the personal Statement of United States Department

of Labor Special Agent Craig Woodhouse before the 1984 United States Senate Permanent Subcommittee on Investigations. Agent Woodhouse testified that Vincent A. Melli was identified as a member of La Cosa Nostra during the 1963 Senate Hearings. IO-3D, p. 506. Woodhouse also stated that Melli conspired with Local 299 business agent, Roby Smith, and trucking executive, James Russo, to extort benefits payments from truck drivers represented by Local 299 which resulted in his conviction on various labor racketeering charges including extortion. See United States v. Russo, 708 F.2d 209 (6th Cir. 1983); see also IO-3D, p. 507, and IO-2, ¶ 13.

In this connection, O'Brien stated that "Vincent Melli is a close personal friend of [his]. Has been for many, many years. He baptized my daughter, Josephine." O'Brien Dep., p. 123. O'Brien corroborated Agent Woodhouse's testimony when he confirmed that Melli is Lapiana's father-in-law; and that Lapiana is married to Melli's daughter. Id., p. 148. O'Brien confirmed at the hearing before me that his deposition testimony relative to Melli was accurate. Tr., p. 190.

K. Summary of O'Brien's Associations

After considering the overwhelming evidence primarily based upon the admissions of O'Brien, I can reach no other conclusion than to find that the Investigations Officer has established that O'Brien has associated with Anthony Giacalone Sr., Jack Tocco, Anthony Joseph Tocco, Anthony Zerilli, Anthony Corrado, Vito

Giacalone, Michael Polizzi, and Anthony Provenzano, Vincent Melli and Anthony Lapiana.

VII. O'BRIEN'S KNOWLEDGE OF HIS ASSOCIATES' ORGANIZED CRIME TIES

The remaining issue is whether the Investigations Officer has sustained his burden of proving that O'Brien "knowingly associated" with Anthony Giacalone Sr., Jack Tocco, Anthony Joseph Tocco, Anthony Zerilli, Anthony Corrado, Vito Giacalone, Michael Polizzi and Anthony Provenzano.

In my July 12, 1990, Decision, pp. 35-36, in the matter of Investigations Officer v. Senese, et al., I held that:

[I]n order for the Investigations Officer to sustain his burden of proving a prohibited association with organized crime members, he must show that the contacts in question are purposeful and not incidental or fleeting. Such contacts may be shown in either a business or social context In determining whether the Investigations Officer has sustained his burden of proving a prohibited association, the focus will be placed on the nature and not the number of contacts in question.

In addition, I held that "[i]n the absence of direct evidence of knowledge of the organized crime ties of an associate, I conclude that such knowledge may be inferred from the duration and quality of the association." Id., p. 37. My decision in Senese was affirmed in United States v. IBT (Application XII), 745 F. Supp. 900 (S.D.N.Y. 1990).

While O'Brien, in his deposition testimony, indicated that the vocations of his Organized Crime associates were either legitimate,⁵ or unknown to him⁶. A review of all the evidence indicates that O'Brien was not credible in this testimony.

The Investigations Officer has established the following:

1. O'Brien had a close personal relationship with Anthony Giacalone Sr., and, in fact, referred to him respectfully as "Uncle Tony." O'Brien Dep., p. 49.
2. O'Brien admitted that he saw Giacalone upon his release from prison in 1984 or 1985. Id., p. 49.
3. O'Brien admitted that he spoke to Anthony Giacalone on the telephone upon his release from prison. Id., pp. 49-50.
4. O'Brien stated that he met Anthony Giacalone on the day of Hoffa's disappearance to say good-bye to him because he would be transferring to the Southern Conference and would not see him for some time. IO-1A(A), p. 271.
5. O'Brien stated that on August 2, 1975, he telephoned Anthony Giacalone and made an appointment to meet him at the Southfield Athletic Club for haircuts and manicures. Id., p. 276.
6. O'Brien made a phone call on the morning of August 1, 1975, to Tony Giacalone to inform him that "Little Jim" (JP Hoffa) would like to talk to him. IO-1A(B), p. 180.
7. O'Brien admitted introducing Louis Linteau to Anthony Giacalone for the purpose of selling Anthony Giacalone's apartment in Florida to Linteau. Id., p. 185.

⁵ For example, O'Brien testified that he thought Anthony Giacalone Sr. was an investor in the building business. O'Brien Dep., p. 51. He also thought Melli was in the vending business or the trading business. Id., p. 123. O'Brien adds that Jack Tocco was "part of a Detroit Linen Company." Id., p. 136. O'Brien stated that Polizzi owned a company that did a lot of automotive work. Id., p. 142.

⁶ In his 1988 deposition O'Brien indicated that he did not know what Anthony Corrado or Vito Giacalone did for a living. O'Brien Dep., p. 141.

8. A February 21, 1979, FBI Memorandum confirms that O'Brien was seen in Joe Sonken's restaurant in Hollywood, Florida, between 6:15 and 8:00 p.m., conversing with Tony Giacalone. IO-4, p. 2.
9. O'Brien informed the FBI that Giacalone had given him graduation presents for his children. IO-1A(B), p. 173.
10. O'Brien indicated that he met Anthony Giacalone at Joey Giacalone's apartment in St. Clair Shores, Michigan, on August 1, 1975. IO-1A(A), p. 276.
11. O'Brien indicated that he had dinner with Anthony Giacalone after driving in Anthony Giacalone's 1975 Cadillac to the St. Clair Inn on August 1, 1975. Id., p. 276.
12. O'Brien indicated that during dinner at the St. Clair Inn, Tony Giacalone told O'Brien that he would make a haircut appointment for him the following day. Ibid.
13. O'Brien indicated that JP Hoffa informed him that Hoffa had a meeting with Anthony and Vito Giacalone on Saturday, July 30, 1975. Id., p. 278.
14. O'Brien informed the FBI that he had contacted Anthony Giacalone Sr. on the evening of July 29, 1975. IO-1A(B), p. 174.
15. O'Brien informed the FBI that JP Hoffa had asked O'Brien to arrange a meeting between JP Hoffa and Anthony Giacalone Sr. on August 2, 1975, to which O'Brien agreed. IO-1A(A), p. 275.
16. O'Brien informed the FBI that he called Giacalone and told him that JP Hoffa would set up a meeting with Anthony Giacalone himself. Id., p. 276.
17. O'Brien informed the FBI that for a short period, he resided at the apartment of Joseph Giacalone in St. Clair Shore, Michigan. IO-1A(B), p. 183.
18. O'Brien admitted that he has known Anthony Provenzano and his family for over twenty years. O'Brien Dep., p. 54.
19. O'Brien stated that Jack Tocco is a personal friend of his and that he is aware of meetings and discussions that occurred between Jack Tocco and JR Hoffa at the Hazel Park Racetrack in Detroit. O'Brien Dep., pp. 136-137.

20. O'Brien also admitted that he saw Jack Tocco at a golf outing a couple of years ago and that he also saw him at a wedding a couple of years ago. Id., p. 137.
21. O'Brien also admitted that he is friends with Anthony Zerilli and that he had known him a very long time. Id., p. 138.
22. O'Brien also admitted he was a very close personal friend of Vincent Melli and has been for many years. Id., p. 123. He added that Vincent Melli baptized his daughter, Josephine. Id., p. 139.
23. O'Brien indicated that Anthony Corrado is a friend of his and that he knows Anthony's brother, Dominick. Id., p. 140.
24. O'Brien indicated that he knows Vito Giacalone and that he has known him since he has been a young man. Id., p. 141.
25. O'Brien indicated that he knows Michael Polizzi and that he is a gentleman and he has known him since he was a young man. Id., p. 142.
26. O'Brien admitted that he knows Anthony Joseph Tocco and his wife and his family. Ibid.

It strains credulity that Mr. O'Brien could be friends with all the members in the highest ranking positions of the Detroit Organized Family of La Cosa Nostra and not be aware of their organized crime connections. This is especially true in light of the extensive media coverage in the Detroit area offered by the Investigations Officer concerning the organized crime connections of O'Brien's associates. Certainly, anyone living in the Detroit area, let alone a Detroit Union official who was friendly with these individuals, would be aware of their reputation as members of organized crime. Attached hereto as Exhibit A is a schedule of 34 newspaper and magazine articles and book excerpts which reported the organized crime connections of O'Brien's Detroit associates.

In a similar connection, O'Brien testified that he had read about Anthony Salerno's trial in the newspaper, (O'Brien Dep., p. 149) hence; O'Brien, even while in Florida, kept abreast of organized crime news via the newspapers.

Thus the Investigations Officer has satisfied his just cause burden of proving, by a preponderance of the evidence, that O'Brien knowingly associated with Jack Tocco, Anthony Zerilli, Michael Polizzi, Anthony Corrado, Anthony Giacalone, Vito Giacalone, Anthony Tocco, and Anthony Provenzano.

VIII. THE MERITS OF CHARGE IV

As noted, the Investigations Officer has charged O'Brien with violating Articles II, § 2(a) and XIX, § 6(b) of the IBT Constitution by knowingly incurring unauthorized charges on an IBT American Express credit card to charter a private Lear jet. The facts underlying this charge arose from O'Brien playing a role in setting up a benefit concert in Austin, Texas for the families of victims of a Texas tornado. O'Brien used an American Express Card issued to him by IBT Local Union 769 to charge over \$12,000 to transport Country Western Singer Johnny Cash to and from the Austin concert.

To sustain his burden on this charge, I find that the Investigations Officer must prove that O'Brien acted with "fraudulent intent to deprive [Local 769] of its funds." See Investigations Officer v. Mario J. Salvatore, Opinion of the

Independent Administrator, (October 12, 1990) aff'd, United States v. IBT, 754 F. Supp. 333, 338 (S.D.N.Y. 1990).

The Investigations Officer offered the deposition testimony of Local 769's President, Anthony Cannestro ("Cannestro"), and its Secretary-Treasurer, Stanley Lichtman ("Lichtman"), to prove the embezzlement. In his deposition (IO-3B, p. 26, et seq.), Cannestro indicated that the use of the Local 769 credit card was unauthorized, and upon discovering the American Express charge slip signed by O'Brien, he immediately contacted O'Brien for an explanation. During a short conversation, O'Brien informed Cannestro that he had worked out a deal whereby the bill for the air charter was not supposed to be submitted. Cannestro Deposition, p. 30. The bill was in fact submitted by the air charter company to American Express which paid it, thereby putting Local 769 over \$12,000 in debt. Cannestro added that he then tried to contact O'Brien repeatedly by telephone over the next three weeks in an effort to resolve the matter, but was unsuccessful. He then sent O'Brien a certified letter to put him on notice of Local 769's position. Id., p. 30. In that letter, which was attached to Cannestro's deposition as Exhibit 1, he stated, "Local 769 in no way took part in that activity and neither you nor anyone else was authorized to incur such charges." (Emphasis in original.)

Secretary-Treasurer Lichtman corroborates Cannestro's version of events in his deposition offered by the Investigations Officer as Exhibit IO-3C.

O'Brien attempts to avoid responsibility for his action by stating that he made a mistake in judgment and that he was in no way personally benefitted by charging the air charter on Local 769's American Express card. O'Brien Memo, p. 12. In this instance, a mistake in judgment and lack of personal benefit, may be considered mitigating factors. The key issue, as noted in Salvatore, however, is whether O'Brien acted with "fraudulent intent to deprive the Local of its funds."

I find that he did. At the hearing before me, O'Brien testified that he was unauthorized to incur the charge for the Lear jet. Tr., p. 188. This is supported by the statement of President Cannestro and Secretary-Treasurer Lichtman. O'Brien stated that he had attempted to reimburse the monies to American Express and, in fact, had signed a promissory note payable in 90 days to Local 769 in the amount of \$12,470.03. Respondent's Exhibit 9. Subsequent to the signing of the note, O'Brien struck an agreement to pay American Express \$500.00 per month. Introduced as Respondent's Exhibit 12 are copies of two \$500.00 money orders dated October 2, 1989, and November 2, 1989, payable to American Express.⁷ I, therefore, find that O'Brien reimbursed Local 769 \$1,000 towards the \$12,407.03 debt. O'Brien claims that his wages are subject to an IRS lien which leaves him financially unable to continue in the arrangement. There is nothing in the record to support this claim.

⁷ At the hearing, O'Brien stated that he would send me proof that he paid additional money to American Express. I left the record open for him to do so. He failed to send anything further on this issue. Tr., pp. 152-153.

While I conclude that O'Brien has made some attempt to rectify his improper use of the Local 769 credit card, viewing his conduct in light of all the surrounding circumstances, I find that the Investigations Officer has met his burden of proving Charge IV.

IX. THE PENALTY TO BE IMPOSED

A. Charges I and II

The two convictions which form the basis of these charges are thirteen and fifteen years old, respectively. Here, the age of these offenses is a mitigating factor that will be considered. That, absent other charges, would indicate that an appropriate penalty on the two charges could be suspension of one year. There is no need to impose this penalty, however, in view of the penalty imposed on Charge III.

B. Charge III

Much of the Investigations Officer's proof on this charge rests upon the admissions made by O'Brien in his deposition in the underlying matter. Those individuals that O'Brien lists as his "friends" reads like a "who's who" in the hierarchy of the Detroit family of La Cosa Nostra. While I recognize that many of these admitted associations occurred in the mid 1970's, O'Brien has had some continuing contact with identified members of the Detroit family of La Cosa Nostra through to the present. While I am mindful that O'Brien left the Detroit area in 1975, I do not believe O'Brien when he claims that the sole reason for his doing

so was to terminate his association with members of organized crime. My reading of the situation has O'Brien leaving the Detroit area to flee the publicity surrounding the disappearance of James Hoffa. The press had tied O'Brien to that disappearance. Even upon leaving the Detroit area, O'Brien had contact with members of La Cosa Nostra in 1979 and also in the 1980's. See pp. 23-24, supra. For instance, O'Brien admitted before me that he continues to have contact with Lapiana, an individual identified by the FBI as a member of La Cosa Nostra, on the average of four to five times per week. Tr., p. 190. In his deposition, O'Brien also called Vincent Melli, another Detroit organized crime figure, his "very close personal friend" and stated that Melli "baptized my daughter, Josephine." O'Brien Dep., p. 123.

O'Brien's close present relationship with Lapiana demonstrates that O'Brien has not severed his ties to the Detroit mob. O'Brien's associations with his underworld friends are repugnant to a union committed to cleansing itself of what United States District Judge David N. Edelstein has referred to as the "hideous influence of organized crime." 745 F. Supp. 908, 910 (S.D.N.Y.) Thus, there is only one just and reasonable penalty to be imposed when a Teamster officer chooses his friends from the ranks of organized crime -- permanent debarment from the IBT. Only by cleansing the IBT in this manner can this Union ever hope to function as a democratic organization and regain the confidence and pride of the rank and file.

Accordingly, by virtue of this decision, O'Brien is permanently barred from the IBT and is to remove himself from all his IBT affiliated union positions (including membership in the IBM) and draw no money or compensation therefrom, or from any other IBT - affiliated source.

C. Charge IV

The unauthorized use of a Local's IBT credit card for charging a Lear jet is a serious offense. In mitigation, however, is the fact that the charge was not incurred to personally benefit O'Brien, but rather was incurred to benefit victims of a disaster. Also considered was the fact that upon acknowledging his error, he voluntarily paid back a portion of the debt. Based upon my conclusion that O'Brien still owes Local 769 \$11,403.07 plus interest, I impose an obligation upon O'Brien to return to Local 769 the balance of the monies regarding his admitted unauthorized use of the Local 769 American Express card. Moreover, if O'Brien is owed any outstanding monies or benefits by the IBT or any IBT-affiliated entity, the IBT or any such entity should pay such amounts to Local 769, instead of O'Brien, up to the amount of his debt.

Ordinarily, as with respect to Charge I, I would impose a one-year suspension. However, this is moot given the penalty imposed on Charge III.

X. O'BRIEN'S BENEFITS

On January 17, 1991, I informed Mr. O'Brien that he had the opportunity, pending my decision on his disciplinary charge, to address the issue of whether I should impose sanctions impacting upon his pension, health and welfare benefits if I issued a decision adverse to him. By copy of the same letter, I invited the Investigations Officer, the Government and the IBT to make submissions on the benefits issue if they chose to do so. I have received and reviewed these post-hearing "benefits" submissions.

A. Pension Benefits

O'Brien, in his submission did not identify or claim any right to vested pension benefits. Given O'Brien's long history with the IBT, I find it difficult to believe that O'Brien is not entitled to any pension. If, however, O'Brien is a participant in any pension plan, he is entitled to all interests vested up to and including the date of the commencement of his debarment.

This is consistent with my decision in Investigations Officer v. Senese, et al., Supplemental Decision of the Independent Administrator (November 29, 1990), aff'd, United States v. IBT (Application XVI), slip op., (S.D.N.Y. December 28, 1990), as well as the Supreme Court's prohibition on the preclusion of vested pension benefits. See Guidry v. Sheet Metal Workers National Pension Fund, 110 S.Ct. 680 (1990). In Senese, however, in order to protect the assets of Senese's Local, I directed the Local and any other IBT-affiliated entity that may have contemplated doing

so, to discontinue making payments of Union funds to any health, welfare, or employee benefit plan on Senese's behalf.

Accordingly, I direct that no further contributions are to be made by the IBT or any IBT-affiliated source on O'Brien's behalf to any pension plans or funds, if any exist, in which O'Brien has an already vested interest. Such an approach is consistent with my November 29, 1990, ruling in Senese.

B. Health and Welfare Benefits

O'Brien indicates that he is "presently entitled to health and welfare benefits under the "Central States C G Plan" and under the "International Plan." Along with naming these plans, O'Brien indicates that I have the authority to terminate his benefits under these plans. Consistent with my treatment of the pension plans, I direct that no further contributions are to be made to either the "Central States C G Plan" or the "International Plan" by the IBT or any IBT-affiliate on O'Brien's behalf. O'Brien may, however, maintain his coverage through personal contributions.

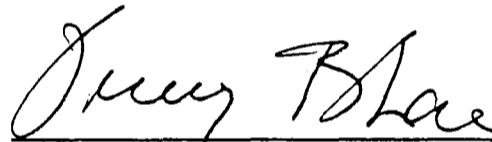
C. Attorney's Fees

From a point in time soon after the charges against O'Brien were filed by Mr. Carberry, up to ten days before the hearing, O'Brien was represented by counsel. O'Brien has made no representations regarding the payment of attorney fees incurred in connection with his defense of the disciplinary charge filed against him by the Investigations Officer. It is clear, however,

that Union officials charged with misconduct and found to have committed misconduct, may not have their legal fees paid by their Union. See Investigations Officer v. Angelo Misuraca, Opinion of the Independent Administrator (March 6, 1991). Consistent with that ruling, I direct that none of O'Brien's legal fees incurred in connection with this matter are to be paid by the IBT or any IBT-affiliated source.

D. The Voluntary Stay

I will stay the imposition of the penalties imposed herein until such time as Judge Edelstein reviews these findings and the penalties imposed, all of which I will submit to him by way of Application.



Frederick B. Lacey
Independent Administrator

Dated: May 15, 1991

EXHIBIT A

1. November 20, 1963, Detroit News article describing Anthony and Vito Giacalone as leaders of a Mafia crime syndicate indicted for tax evasion.

2. December 19, 1963, Detroit News article which identifies Giacalone as Detroit Mafia leader and indicates Anthony Giacalone's involvement in a police bribery case.

3. December 11, 1964, Detroit Free Press article which refers again to Anthony Giacalone's bribery case and calls him the "Gambling Czar of Southeastern Michigan."

4. January 16, 1966, Detroit Free Press article which refers to Anthony Giacalone as "ranking Mafia administrator." It also pictures Giacalone's house and calls it "the house that bookmaking built."

5. September 2, 1966, Detroit Free Press article which describes the ouster of Anthony and Vito Giacalone from the Home Juice Company of Detroit because the parent company believed that the Giacalone's firm was a "mob-controlled outfit."

6. August 8, 1967, Detroit Free Press article which describes Giacalone as a reputed Mafia leader and discusses his grand jury contempt citation.

7. May 23, 1968, Detroit American article which describes Anthony and Vito Giacalone as "Mafia bosses." The article is entitled "Giacalone Brothers Face Trial For Home Arsenals."

8. September 11, 1968, Detroit Free Press article entitled "Alleged Mafia Chief Named At Port Of Detroit Hearing." Anthony Giacalone's name was mentioned in testimony before a legislative committee hearing on possible charges involving the operations of the Port of Detroit.

9. October 9, 1968, Detroit News article entitled "State Rests Gambling Case Against Tony Giacalone." The article states that it was "the Mafia leader's third trial on a gambling charge."

10. October 13, 1968, Detroit News article which describes the Organized Crime Division of the Michigan Attorney General's office's prosecution of Giacalone, his brother, and others in relation to loansharking operations.

11. November 9, 1968, Detroit Free Press article entitled "Tony Giacalone Guilty Of Blackjack Possession." The article states that Giacalone was named as a Detroit Mafia leader in the United States Senate hearings.

12. January 12, 1969, Detroit Free Press article entitled "Tony Giacalone Rules With A Regal Flair." The article describes Tony Giacalone's importance in the Detroit underworld.

13. August 22, 1969, Detroit Free Press article entitled "Track Aids Linked To Mafia." The article states that the top corporate officers of the Hazel Park Racetrack, Anthony Zerilli and Jack Tocco, are identified by the United States Department of Justice as major members of the Detroit Mafia. The article also describes the organized crime influence at the Hazel Park Racetrack. The article names Anthony Giacalone, William Tocco, Anthony Zerilli, and Jack Tocco, as members of the Detroit Family of La Cosa Nostra.

14. September 25, 1970, Detroit News article which states that Dominick Corrado (Anthony's brother and an admitted friend of O'Brien See p. ___ supra) and Jack Torro are notorious Detroit racketeers under federal indictment in a \$100,000 bankruptcy fraud case.

15. February 26, 1971, Daily Tribune article entitled "United States Indicts Hazel Park Track Boss." The article states that Michael Polizzi was identified by the Senate Permanent Investigation Subcommittee as a top leader, a "capadencina" in the Detroit organized crime syndicate."

16. February 27, 1971, Detroit Free Press article entitled "Zerilli, And Five Others Indicted In Las Vegas Casino Deal." Named in the indictment were Anthony J. Zerilli and Michael Polizzi. The indictment charges that the defendants conspired to conceal their ownership in the Frontier Hotel in 1966 and 1967 and also indicates that Zerilli and Polizzi were both identified by the U.S. Senate Permanent Investigation Subcommittee as leaders of Detroit's Organized Crime Family of La Cosa Nostra. It also states that Polizzi was named as a Mafia leader by former Detroit Police Commissioner George Edwards in his 1963 testimony before the Senate Rackets Committee.

17. June 1, 1971, Detroit News article which states that Anthony Zerilli and Jack Tocco, officers of the Hazel Park Racing Association, offered to remove themselves from office as a result of grand jury indictments bankruptcy fraud.

18. May 5, 1972, Detroit Free Press article which states that "reputed Detroit Mafia figure Anthony Zerilli resigned . . . as a Director of the Hazel Park Racetrack." It states that Zerilli was named as a Detroit crime syndicate member before the U.S. Senate Subcommittee.

19. May 9, 1972, Detroit News article entitled "Reputed Detroit Crime Figures Called In On A Probe." Those mentioned in the article were Jack Tocco, Michael Polizzi, and Anthony Zerilli.

20. September 19, 1972, Detroit News article which describes that the Michigan Conference of Teamsters' Board of Trustees will discuss a role played by Detroit Mafia leader, Anthony Giacalone, in the establishment of a Teamsters hospital care plan.

21. September 21, 1972, Detroit News article mentioning the role played by Mafia leader Anthony Giacalone in promoting a Teamsters hospital care plan.

22. September 28, 1972, Detroit News article involving Anthony Giacalone. The article calls him a reputed Detroit Mafia figure and states that Giacalone received a share of benefits from each patient hospitalized under a certain Teamsters hospital care plan.

23. November 2, 1972, Detroit News article identifying Vito Giacalone as a Detroit Mafia Chieftan and tying him to Anthony Giacalone and the Teamsters hospital plan scam.

24. April 11, 1974, Detroit News article which identifies Vincent Melli as a Mafia leader, and describes his indictment for federal income tax evasion. The article states that Melli was named in Detroit 1963 Senate Committee testimony as a Detroit Mafia "big man."

25. August 14, 1974, Detroit News article which identifies Anthony Giacalone as a reputed Mafia chief, and calls him one of the "ten big men in the Detroit Mafia."

26. August 16, 1974, Detroit News article which states that although Anthony Giacalone may be in Florida, he is still a very important man in the Detroit Mafia. This article states Giacalone moved to Florida to give the Detroit Mob an unseen manager for many of their lucrative Florida business investments.

27. May 15, 1975, Detroit News article entitled "FBI arrests Giacalone on fraud charges." The article refers to Giacalone as a "Mafia chieftan."

28. August 4, 1975, Detroit News article which describes Anthony Giacalone as a Detroit Mafia kingpin and talks about Giacalone's possible involvement in the disappearance of Hoffa.

29. December 13, 1975, Daily Tribune article which identifies Tocco as one of the top organized crime figures in Detroit.

30. April 20, 1968, Detroit Scope magazine article entitled "How The Way Was Cleared For Mafia Control of Detroit's Docks." Anthony and Vito Giacalone are identified as two alleged Mafia kingpins who operate the Detroit waterfront.

31. November 23, 1968, Detroit Scope magazine article which describes Anthony Zerilli, Anthony Corrado and Anthony and Vito Giacalone as top Detroit Mafia leaders.

32. December 7, 1968, Detroit Scope magazine article entitled "The Hazel Park Racetrack And The Mafia." The article describes the Hazel Park Racetrack as "a classic example of Mafia infiltration of legitimate enterprise." The article identifies Anthony Zerilli, Jack Tocco, Anthony Tocco and Dominick Corrado as board members of the Hazel Park Racetrack, and as members of the Detroit Family of La Cosa Nostra.

33. August 3, 1976, Newsweek article which states that the Hoffa disappearance was arranged by Charles L. O'Brien. The article states that major Mafia figures, Tony Giacalone and Anthony Provenzano, both had reasons to want Hoffa dead.

34. September 1981 monthly Detroit magazine article called "Jack Tocco Mob Boss Or Model Citizen." The article describes Vito Giacalone, Anthony Zerilli, Anthony Giacalone, Jack Tocco and Anthony Tocco, as high ranking members of the Detroit Family of La Cosa Nostra.