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February 10, 2016

IBT General Executive Board
International Brotherhood of Teamsters
25 Louisiana Avenue, NW
Washington, DC 20001

Re: Proposed Charge Against International Vice President, Joint Council 7 President and Local853 Principal Officer Rome Aloise

Dear General Executive Board Members:

Enclosed are the Independent Review Board's (IRB) report and accompanying exhibits concerning International Vice President, Joint Council 7 President and Local 853 Principal Officer Rome Aloise. This report is forwarded to you for appropriate action under Section G, paragraphs (d) and (e) of the March 14, 1989 Consent Order entered in United States v. IBT, 88 Civ. 4486 (S.D.N.Y.).

Upon review of the report, if you deem it appropriate, charges under Article XIX of the IBT Constitution should be filed. You have ninety days within which to file the charges, hold a hearing and forward a final written report to the IRB. Pursuant to paragraph I(9) of the IRB Rules, not meeting this deadline may be considered a failure to cooperate with the IRB. Copies of hearing transcripts should be furnished to the IRB and to the Chief Investigator.

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

Very truly yours,

Members of the
Independent Review Board

By: _____
John J. Cronin, Jr.
Administrator

Enclosures

cc: Charles M. Carberry, Esq., w/Exhibits
Bradley T. Raymond, Esq., w/Exhibits
Edward A. McDonald, Esq., w/Exhibits
Tara M. La Morte, AUSA, w/Exhibits
Rome Aloise, w/Exhibits

TO: Members of the IBT General Executive Board

FROM: Members of the Independent Review Board

DATE: February 10, 2016

RE: Proposed Charges against International Vice President, Joint Council 7 President and Local 853 principal officer Rome Aloise

I. RECOMMENDATION

The Independent Review Board recommends to the IBT General Executive Board that charges be filed against Rome Aloise ("Aloise"), an International Vice President, President of Joint Council 7, and principal officer of Local 853, for requesting and receiving things of value from IBT employers in violation of 29 U.S.C. §186(b) and Article XIX, Section 7(b)(2), (11) and (13) of the IBT Constitution. It is also recommended that Aloise be charged with violating Article XIX, Section 7(b)(1) and (2) and Article XIV, Section 3 of the IBT Constitution, violating Article IV, Section 6 of the Local 853 Bylaws and bringing reproach upon the IBT in violation of Article II, Section 2(a) of the IBT Constitution through allowing an ineligible person to obtain membership and entering into sham collective bargaining agreements with The GrandFund. It is also recommended that Aloise be charged with bringing reproach upon the IBT through a pattern of misconduct designed to prevent a fair officer election in Local 601, including using union resources to support a candidate and subvert her opponents in violation of 29 U.S.C.§481(g); attempting to deny members' LMRDA rights to free speech, to sue and to fair hearings; breaching his fiduciary duties under 29 U.S.C. §501(a) by, among other things, failing to act to end a Local officer's known failure to comply with instructions from the General Secretary-Treasurer's office

for political reasons in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(1), (2) and (10) of the IBT Constitution.

II. JURISDICTION

Pursuant to Article XIX, Section 14(c) of the IBT Constitution, this disciplinary matter is within the original jurisdiction of the IBT General Executive Board. Paragraph G(e) of the Consent Order and Paragraph I(6) of the court-approved Rules and Procedures for Operation of the IRB ("IRB Rules") require that within ninety days of the IRB's referral of a matter to an IBT entity, that entity must file with the IRB written findings setting forth the specific action taken and the reasons for such action. Pursuant to Paragraph I(9) of the IRB Rules, failure to meet this deadline may constitute a failure to cooperate with the IRB. Pursuant to Paragraphs 27, 32 and 33 of the Final Order in United States v. International Brotherhood of Teamsters, 88 Civ. 4486, if this matter is not completed until after February 17, 2016, the General Executive Board's action should be forwarded to the Independent Review Officer within the 90 days.

III. INVESTIGATORY FINDINGS

A. Rome Aloise

Rome Aloise is an International Vice President at Large, President of Joint Council 7, and principal officer of Local 853 in San Leandro, California. (Ex. 1 at 4)[1] In 2014, he was paid a

[1] Joint Council 7 is comprised of 22 Local unions in California north of Los Angeles and in Northern Nevada. (Ex. 10) These Locals have over 100,000 members. (Ex. 10)

combined salary of $301,284 from those entities. (Exs. 7-9)[2] He also is the director of both the IBT Food Processing and Dairy Divisions. (Ex. 1 at 10)[3]

Aloise is a union Trustee on the Western Conference of Teamsters Trust. (Ex. 1 at 5, 7)[4] It is the largest area-wide multi-employer pension plan in the United States. (Ex. 1 at 5; Ex. 13) He is the union co-chair of the investment committee for this fund. (Ex. 1 at 27-28) Aloise is also Chairman and a Trustee on the Teamsters Benefit Trust ("TBT"). (Ex. 1 at 4, 9-10) He is also a Trustee on the IBT's Voluntary Employee Benefit Trust ("VEBA") and the IBT's Supplemental Benefit Trust. (Ex. 1 at 5, 9, 10; Ex. 15) In addition, he is on the board of the Western Health Care Coalition which is a group of separate Teamster funds, including the Teamsters Benefit Trust, that act together to gain advantage from the increased purchasing power of the group in securing services. (Ex. 1 at 4-6, 9-10)

B. Charles Bertucio and The GrandFund

Charles Bertucio ("Bertucio") is a principal of The GrandFund ("GrandFund") which on its website represented itself as a family of companies that provide services to the Taft-Hartley fund community. (Ex. 16; Ex. 2 at 6) One of its companies, the GrandFund Investment Group, LLC, is a broker dealer registered with the SEC. (Ex. 17) Bertucio and his company assist other companies or firms to sell services, insurance and other products to union funds. (Ex. 2 at 10-11) For example, Optum, a division of United Health Group, that among other things acts as Pharmacy

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[2] In 2014, Aloise was paid $149,854 from the IBT, $126,440 from Local 853 and $24,990 from Joint Council 7. (Exs. 7-9)

[3] The IBT represents more than 60,000 workers in the food processing industry and more than 35,000 workers in the dairy industry. (Exs. 11-12) As the Director of these divisions, Aloise "oversee[s] all the negotiations, grievance panels, any interactions with employers, all the negotiations." (Ex. 1 at 10-11)

[4] His brother-in-law is the Trust's full-time union chairman. (Ex. 1 at 5, 7, 126)

Benefits Manager ("PBM") for union funds, used Bertucio and GrandFund essentially as a broker to assist it in securing contracts with Teamster funds. (Ex. 2 at 10-11; Ex. 18; Ex. 1 at 39-40; Ex. 3 at 15-16, 29)[5] Several Teamster Health Funds on which Aloise was a Trustee used Optum for PBM services. (Ex. 1 at 105, 114-115; Exs. 14, 19-20)[6] In Aloise's experience, until recently, large companies dealt with the Funds directly through their own sales force. (Ex. 1 at 37-40) Using intermediaries like Bertucio was unusual for such companies. (Ex. 1 at 37-40) [7]

Bertucio and Aloise have been friends for over 20 years. (Ex. 1 at 35)[8] Indeed, in 2003, Aloise intervened to stop the IBT General Secretary-Treasurer from prohibiting Teamster entities from doing business with Bertucio and a company he was assisting. (Ex. 21)[9] This benefitted Bertucio's business.

Bertucio also appears to have personal relationships with other high ranking Teamsters. For example, the IBT General President and other IBT officials involved with trusts went on European golf vacations with Bertucio and other vendors to the IBT and IBT funds in 2013 and 2014. (Ex. 2 at 28-29, 31-33; Ex. 22) [10]

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[5] Bertucio had a company, My Union RX, that provided similar services to Optum's predecessor company, Prescription Solutions, which also was used by Teamster Funds. (Ex. 2 at 8-10; Exs. 72, 369)

[6] These funds included the TBT and the IBT's VEBA. (Exs. 19-20)

[7] Aloise indicated that now some other companies used the services of intermediaries to deal with the Funds. (Ex. 1 at 39) The intermediaries often are ex-Teamster employees. (Ex. 1 at 39-40) Bertucio never worked for any union. (Ex. 2 at 6)

[8] Bertucio testified that they had been friends for over 35 years. (Ex. 2 at 5-6)

[9] In a March 13, 2003 email to Bertucio, Aloise stated, ". . . I headed off a letter from Keegel telling Locals not to use you, so that didn't go out until the final thing happens." (Ex. 21) The company Prescription Solutions was designated by the IBT as a preferred provider of PBM services each year for multiple years. (Ex. 368) Prescription Solutions became Optum. (Ex. 2 at 8-10; Ex. 369)

[10] The following IBT officials and vendors to the IBT or its affiliated funds went on a golf trip to Scotland in August 2013: IBT General President James Hoffa, Executive Assistant to the IBT General President Willie Smith, IBT Trade Division Director Stephen Mack, Bertucio, Richard Leebove, a political advisor to the Teamsters, Greg Tarpinian from EnTrust and Edward Sullivan from Labor Benefits, LLC. (Ex. 2 at 29-32; Exs. 119, 22, 24-25; Ex. 1 at 30-32) In 2013, the IBT, apart from entities within or connected to the IBT, paid Leebove's company, RL Communications, $136,932. (Ex. 119) The IBT paid Tarpinian's company, LRCS Inc. (LRA

C. Local 853's contract with The GrandFund

Since March 1, 2004, Local 853 has had a collective bargaining agreement with Bertucio's company, The GrandFund. (Exs. 27-29)[11] Bertucio signed for the company. (Exs. 27-29) Aloise signed for the Local and has been the assigned business agent for this three person shop since 2004. (Exs. 27-29, 34; Ex. 1 at 57-63)

Bertucio was one of three listed principals for GrandFund on its website. (Ex. 16) He was its sole owner. (Ex. 2 at 19) From May 11, 2012 until December 11, 2015, Bertucio was a Local 853 member. (Ex. 30)[12] As described below, Bertucio was ineligible for membership under the collective bargaining agreement, the IBT Constitution and Local 853's Bylaws. (Exs. 29, 30, 33; Ex. 46 at 3)[13] On December 11, 2015, after Aloise's IRB sworn examination, Bertucio was issued a withdrawal card. (Exs. 1, 30) The two other current Local 853 members listed as GrandFund

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Consulting) DBA The Tarpinian Group, apart from EnTrust, $156,000 in 2013 and paid Sullivan's company, Labor Benefits, $91,913 that year. (Ex. 119) According to its 2013 IRS Form 5500 the Western Conference of Teamsters Trust filed, as of December 31, 2013, the Trust had $233,477,295 invested with EnTrust Activist Managers, L.P.. (Ex. 122) That year, EnTrust Partners, LLC received indirect compensation of $2,371,524 from the Trust. (Ex. 122) The GrandFund was paid by the companies it assisted in selling to the IBT and its entities. (Ex. 2 at 28)

The same individuals went on a golf trip to Ireland in 2014. (Ex. 2 at 29-31) In addition, David Laughton, the IBT's Trade Conference Director, President of Joint Council 10 and Chairman of the New England Benefit Trust and the New England Teamsters and Trucking Industry Pension Fund, went on the 2014 golf trip. (Ex. 2 at 29-31; Ex. 26) International Trustee Kevin Moore also went on the 2014 trip. (Ex. 2 at 29) The IBT paid Leebove's company, RL Communications, $128,488 in 2014. (Ex. 7) The IBT paid Tarpinian's company $160,375 in 2014. (Ex. 7) In 2014, the IBT paid $97,820 to Labor Benefits. (Ex. 7) According to the 2014 Form 5500 the Western Conference of Teamsters Trust filed, as of December 31, 2014, the Trust had $253,321,326 invested with EnTrust Activist Managers, L.P.. (Ex. 23) That year, EnTrust Partners, LLC received indirect compensation of $3,050,468 from the Trust. (Ex. 23)

Bertucio testified that in 2013 and 2014, the trips were arranged through a travel agent and each individual was responsible for the payment of his costs. (Ex. 2 at 29, 33)

[11] The agreement entered into in 2012 expired in February 2015. (Ex. 29) The Local through Aloise indicated its intent to negotiate a new contract. (Exs. 31-32) By its terms, the 2012 agreement continues in force on a year to year basis. (Ex. 29 at 8)

[12] Bertucio's membership application was dated March 30, 2012. (Ex. 30) It was stamped received at the Local on April 18, 2012, and his initiation fee was paid on May 11, 2012. (Ex. 30)

[13] During his IRB sworn examination, Aloise acknowledged that Bertucio should not be a Local member. (Ex. 1 at 67-68)

employees in Local records were Vicki Lanini ("Lanini"), a marketing specialist, and Lisa Ramsey ("Ramsey"), Bertucio's sister, who described herself as a secretary and bookkeeper. (Exs. 34, 36, 38; Ex. 2 at 7; Ex. 4 at 5-6; Ex. 3 at 8)[14]

The GrandFund collective bargaining agreements with Local 853 provided for the employer to pay monthly contributions to the Teamsters Benefit Trust for each covered employee. (Ex. 27 at 4; Ex. 28 at 4; Ex. 29 at 4)[15] These provided the employees with "Health and Welfare, Life Insurance, Dental Plan, Orthodontia Coverage, Vision Care Benefits, Prescription Drugs Benefits." (Ex. 27 at 4; Ex. 28 at 4; Ex. 29 at 4) There were also employer contributions to the Teamsters Benefit Trust Retirement Security Plan and the Supplemental Income 401(k) Plan Trust. (Ex. 27 at 4-5; Ex. 28 at 4-5; Ex. 29 at 4-5) In connection with the initial contract, the subscriber's agreement between the company and the Fund allowed Bertucio, the owner, to receive these benefits as a non-union supervisor. (Exs. 41-43; Ex. 1 at 65; Ex. 2 at 17-19) Aloise agreed to this for the Local. (Exs. 41-43; Ex. 1 at 65-66)

For several reasons, the collective bargaining agreements the GrandFund had with Local 853 were shams. As described below, Aloise and Bertucio entered into the initial collective bargaining agreement before there were Local members at the company or any employee had signed an authorization card for Local 853 to represent her. This allowed Bertucio to select the bargaining agent for his employees in violation of 29 U.S.C. §158(a)(1) and (2)(a), unfair labor

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[14] From May 2004 through June 2006, there were three members employed at GrandFund: Ramsey, Lanini and Edward Logue. (Exs. 36-38, 191) After Logue died in July 2006 (Ex. 39), there were two members until May 2012 when Bertucio joined the Local. (Exs. 30, 36, 38, 191) For the period from March 2013 through June 2014, there were four Local members when Neal Wilkinson was a member. (Exs. 30, 36, 38, 40, 191) From June 2014 through December 2015 when Bertucio was issued a withdrawal card, there were three Local members at the company: Bertucio, Ramsey and Lanini. (Exs. 30, 36, 38, 191)

[15] After the initial contract in 2004, the company and Local 853 entered into contracts in 2007 and 2012. (Exs. 28-29) The 2012 contract expired in February 2015 and is allegedly under negotiation. (Ex. 29; Ex. 3 at 12)

practices involving employer interference with members' rights under 29 U.S.C. §157 to select their own representative. Aloise assisted those employer unfair labor practices. In addition, Aloise also caused the local to commit an unfair labor practice under 29 U.S.C. §158(b)(1)(A).[16] Moreover, in violation of the Local's Bylaws and the IBT Constitution, members were not consulted about bargaining demands and did not vote on the contracts the Local entered into with their employer.

Further evidencing the sham nature of the collective bargaining agreements, the agreements did not govern the terms of compensation for the members. For example, contrary to every other contract Local 853 had that included member compensation through commissions, for over a decade each agreement with the GrandFund provided that both a commission and its rate for certain sales employees were "to be determined." (Ex. 1 at 60; Ex. 27 at 4; Ex. 28 at 4; Ex. 29 at 4) In fact, there were no commissions; only bonuses that the employer might award in his complete discretion. (Ex. 2 at 17) Another example was that in the 2007 collective bargaining agreement Aloise agreed with no explanation to a 9% reduction in wages for the hourly employee from what the hourly rate allegedly had been at the end of the first contract. (Ex. 27 at 5; Ex. 28 at 5; Ex. 44) Moreover, as explained below, the hourly rate in the current contract did not appear to govern Bertucio's sister's compensation in violation of Article XVI, Section 2 of the Local 853 Bylaws. (Ex. 46 at 21) Furthermore, Aloise's friend Bertucio was an IBT member as of 2012,

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[16] 29 U.S.C. §158(b)(1)(A) provides in pertinent part:

> It shall be an unfair labor practice for a labor organization or its agents—
> (1) to restrain or coerce (A) employees in the exercise of the rights guaranteed in section 157 of this title: Provided, That this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein;

29 U.S.C. §157 provides in pertinent part:

> Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. . .

despite his membership being excluded under the collective bargaining agreement, the IBT Constitution and the Local's Bylaws.

Aloise, Bertucio, Ramsey and Lanini claimed Edward Logue ("Logue"), a former GrandFund employee, was the impetus for the contract between the GrandFund and Local 853. (Ex. 1 at 57; Ex. 2 at 19; Ex. 4 at 9-10; Ex. 3 at 12; Ex. 184 at 1-2; Ex. 37) Logue died in 2006. (Ex. 39) He allegedly handled all the dealings with Local 853. (Ex. 4 at 10; Ex. 3 at 12) According to his Local 853 membership application, Logue had been employed at the GrandFund since 1996. (Ex. 37) The "dead man caused it" story does not match the facts in the documents.[17] In March 2004, Logue represented he had been a GrandFund employee for eight years. (Ex. 37) In that time, although a Teamster member in the past, he had never sought to join Local 853. (Ex. 37) The chronology showed the catalyst for union membership with its benefits was Bertucio's sister joining the company. According to her membership application, Ramsey began work at GrandFund on Monday, March 1, 2004. (Exs. 36, 45; Ex. 4 at 6) Aloise signed the company's subscriber's agreements with the Fund on March 4 before there was a contract. (Exs. 41-42) Aloise then signed the collective bargaining agreement on Sunday, March 7. (Exs. 27, 45) The contract covered the period beginning March 1, the date Ramsey began employment. (Exs. 27, 36) The contract was in effect with Local 853 as the exclusive bargaining representative for the employees. All this occurred before any employee, including Logue, signed an authorization card for Local 853 to be his bargaining representative. (Exs. 36-37)[18] The collective bargaining agreement provided for medical insurance as well as other benefits for Ramsey, Logue, and Lanini and for

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[17] Moreover, even if true, it does not contradict any of the facts evidencing Aloise entered into a sham collective bargaining agreement.

[18] By letter dated September 25, 2015, the Local was asked to provide, among other things, "all membership applications and authorization cards" for all members employed at the GrandFund since January 2004. (Ex. 50) The earliest membership applications, which included authorizations, the Local produced were Logue's and Ramsey's which were dated March 24, 2004. (Exs. 36-37)

Bertucio as a non-member supervisor, through the subscriber's agreement that Aloise approved. (Exs. 27, 41-43; Ex. 2 at 18-19) The union group rate would have been less expensive than comparable individual policies. Bertucio, who did not join the Local until 2012, was allowed with Aloise's consent to obtain health insurance and other union membership benefits from the TBT as a non-bargaining unit employee under the initial contract, not an issue that would have concerned Logue. (Exs. 30, 41-43; Ex. 2 at 18-19) It was Ramsey's employment that caused Bertucio and Aloise to rapidly enter into a collective bargaining agreement before the Local had authorization from any employee at the company to act as his agent.

As noted, all three employees did not sign authorization cards or become members until after Bertucio and Aloise had signed the agreements. (Exs. 27, 36-38) According to union records, Ramsey and Logue each signed an authorization card and application for IBT membership on March 24, 2004, seventeen days after Aloise had signed the collective bargaining agreement and twenty days after he had signed the subscriber's agreements for the GrandFund with the Teamster Benefit Trust. (Exs. 36-37, 27, 41-43) These employees' first payments to the Local were on March 31, 2004. (Exs. 36-37)[19] Lanini's application was undated and represented that she began work at GrandFund on May 3, 2004, months after the contract was entered into. (Exs. 27, 38) Her first dues and initiation fee payments were dated May 19, 2004. (Ex. 38) Her membership began with those payments.[20]

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[19] On March 31, 2004, Logue made his first dues payment. (Ex. 37) Since he had previously been a member of IBT Local 70 in the 1970s, he transferred into Local 853 and did not pay an initiation fee. (Ex. 37) Ramsey paid her initiation fee on March 31, 2004. (Ex. 36) Her first dues payment was the following month. (Ex. 36)

[20] Pursuant to Article XIV, Section 1(b) of the IBT Constitution and Article IV, Section 2 of the Local's Bylaws, if an individual has signed a check-off authorization permitting the initiation fee to be withheld from his pay, such individual becomes a member upon the Local's receipt of the first dues payment. (Ex. 33; Ex. 46 at 2) The Grand Fund employees signed check-off authorizations allowing the initiation fee to be withheld. (Exs. 30, 36-38, 40)

In sum, Aloise allowed the employer to select the employee representative. He agreed to the terms of the collective bargaining agreement before he had any authority to act on behalf of GrandFund employees and before there were any members. In doing so, he caused the Local to commit an unfair labor practice violating the employees' right to select their own representative. Int'l Ladies Garment Workers' Union v. NLRB, 366 U.S. 731, 738-39 (1961).[21] He agreed to the subscriber's agreement allowing the owner Bertucio to get benefits before there was a valid collective bargaining agreement evidencing the motive behind the contract. (Exs. 27, 41; Ex. 2 at 18-19)

In addition, Aloise failed to follow the required procedures in the Local Bylaws and the IBT Constitution for contract negotiations and ratification with respect to any of the three GrandFund contracts. These failures further evidenced the sham nature of the agreements. Article XII, Section 1(b) of the IBT Constitution and Article XVIII, Section 6 of the Local's Bylaws required a members' vote to approve collective bargaining agreements. (Ex. 46 at 25-26; Exs. 33, 47-48)[22] Article XVIII, Section 6 of the Local's current Bylaws provides, "Ratification of agreements or amendments shall be subject to vote in the same manner as provided for in connection with bargaining demands as set forth in Section 27(A). . ." (Ex. 46 at 25) The IBT

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21 As seen through his conduct in the Local 601 election discussed below, Aloise here and continually violated members' rights whenever it interfered with one of his goals. See pp. 66-118 infra.

22 Article XII, Section 1(b)(1) of the IBT Constitution provides in pertinent part:

> Agreements shall either be accepted by a majority vote of those members involved in negotiations and voting, or a majority of such members shall direct further negotiations before a final vote on the employer's offer is taken, as directed by the Local Union Executive Board. During negotiations, the Local Union Executive Board may order a secret ballot strike vote to be taken and when, in the judgment of the Local Union Executive Board, an employer has made a final offer of settlement, such offer must be submitted to the involved membership for a secret ballot vote as hereinafter provided:
>
> (1) If at least one half of the members eligible to vote cast valid ballots, then a cumulative majority of those voting in favor of the of the final offer shall result in acceptance of such offer. . .
>
> (Ex. 33)

Constitution and the Bylaws did not contain a Section 27(A). (Ex. 48) When the IRB requested clarification from the Local, Aloise responded it was an error and that Section 27(A) had been "unintentionally omitted". (Exs. 47-48)[23] He described the procedures in Section 27(A) that the Local followed as follows:

> Whenever a collective bargaining agreement is about to be negotiated, modified or extended at the request of this Local Union, the principal executive officer shall call a meeting at which the membership shall determine and authorize the bargaining demands to be made. The Local Union Executive Board shall determine whether such meeting shall be limited to the members in a particular division, craft or place of employment.

(Ex. 47) Aloise was the Local's "principal executive officer." (Ex. 46 at 12) Accordingly, pursuant to the Bylaws and Aloise's statements in his letter, a contract ratification vote was to be conducted in the same manner as votes on bargaining demands. (Ex. 46 at 25; Exs. 47-48)[24] Consistent with this, Local 853 President and business agent Robert Strelo ("Strelo") testified that he always conducted secret ballot contract ratification votes on collective bargaining agreements. (Ex. 6 at 27) Local 853 Vice President and business agent Bo Morgan ("Morgan") testified that he generally conducted secret ballot contract ratification votes, but at smaller companies he might conduct the vote by a show of hands. (Ex. 5 at 27, 30) However, he was always present at the members' vote. (Ex. 5 at 26)

The IRB requested from Local 853 all records relating to contract ratification votes, negotiation meetings and other meetings with GrandFund members to discuss the contracts. (Exs.

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[23] In his August 21, 2015 letter, Aloise also stated that a section of the Model Bylaws had been incorporated into the Local's Bylaws "without correction for the applicable section references. . ." (Ex. 47)

[24] According to Aloise, the Local would take steps ". . . to address this drafting error immediately by starting the process for amendment of the Bylaws to add this paragraph and correct the cross reference in Section 6." (Ex. 47)

49-50) The Local had none. (Exs. 51-53; Ex. 1 at 63-64)[25] In the eleven years she had been a Local member, Ramsey had never met any representative from the Local at any time. (Ex. 4 at 10) Although she was the only hourly employee at GrandFund, no one from the Local ever discussed her demands with her. (Ex. 4 at 7, 9-10) Ramsey never spoke with anyone from the Local about voting on any collective bargaining agreement. (Ex. 4 at 10) Lanini, who joined after the 2004 contract, admitted she did not vote on the 2007 contract but claimed she and Ramsey at lunch one day by themselves voted on the 2012 contract. (Ex. 3 at 12-13; Ex. 38)[26] There was no written notice to the Local or any other record in its possession of any such event. (Exs. 49-53) In any event, if a lunch meeting had occurred between two employees, one the sole owner's sister, to vote by themselves on the contract, it would not satisfy the Bylaw requirement which demanded the Local's principal officer call a meeting of affected members to ratify contracts. (Ex. 46 at 25-26; Ex. 47; Ex. 4 at 7; Ex. 3 at 12-13) Nor would it be consistent with Local practice. (Ex. 5 at 26-27; Ex. 6 at 25-29)[27] Local 853 President and business agent Strelo and Vice President and business agent Morgan both testified that a Local representative always conducted contract ratification

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[25] In response to an IRB document request dated September 11, 2015 for, among other things, "all records regarding all bargaining demand meetings" for the GrandFund (Ex. 49), the only bargaining demand related documents the Local produced were alleged bargaining demands dated February 19, 2015. (Ex. 32) These demands included a wage increase of 7% each year for the office clerical employees. (Ex. 32) Ramsey was the only office clerical employee. (Ex. 4 at 5-6) She never spoke to anyone at the Local about any bargaining demands. (Ex. 4 at 7, 9-10) Assuming the Local met its obligation of compliance with the IRB request, it had no other responsive documents.

[26] Lanini as a sales person of her partners' products to union funds was highly dependent on Aloise's good graces in her attempts to sell GrandFund's business partners' products and services to Teamster funds. (Exs. 54 and 334)

[27] Aloise testified that sometime stewards would conduct votes without a Local business representative being present. (Ex. 1 at 62) There was nothing in the Local's records to show that Lanini, the alleged GrandFund steward, notified Aloise a vote had occurred in the manner he suggested. (Exs. 34, 49-53) Lanini was listed as the steward for the current three members. (Ex. 34, 359) The other two members were the owner and his sister. Lanini was dependent on Aloise for her livelihood. (Exs. 163, 65, 334) Her testimony that she voted at a lunch was not credible. For the reasons fully discussed in this report, Aloise is not a credible witness. It would have been a meeting of the steward and the owner's sister to vote on a contract with her brother. (Ex. 359; Ex. 2 at 19; Ex. 4 at 5-6) That was not a situation in which a responsible union official, if he had agreed to such a unit, would have allowed a vote to occur without a union representative being present.

votes. (Ex. 5 at 26; Ex. 6 at 26) In contrast to Lanini's testimony that she voted only on the 2012 contract (Ex. 3 at 12-13), Aloise claimed that Lanini reported that there was a vote on both the 2007 and 2012 contracts. (Ex. 1 at 61-64) The absence of any Local record of member approval of these contracts, the facts underlying the 2004 contract, Ramsey's testimony, Lanini's testimony that she did not vote on the 2007 contract, the business agents' testimony regarding Local practice and Aloise's admission he was never present at any GrandFund employee contract vote evidenced that no vote occurred. (Ex. 1 at 61-64; Ex. 3 at 12-13) The Local also had no documentary evidence that established it had any notification that the GrandFund members voted on any contract as Article XII, Section 1(b) of the IBT Constitution required. (Exs. 33, 49-53; Ex. 1 at 63-64) Further evidence that the required procedures had not been followed for the three collective bargaining agreements was found in a communication from Aloise to Bertucio concerning the contract to be negotiated in 2015. (Ex. 55) After reading about an IRB case of an improper contract, Aloise in December 2014, wrote Bertucio that for the contract that expired on February 28, 2015, they needed to have "actual negotiations" and a vote. (Ex. 55; Ex. 1 at 63) It appears Aloise did not send such a notice to any other employer, evidencing the required procedures had not been followed with GrandFund in the previous contracts.

In the first contract and in all subsequent contracts, Aloise agreed to two classes of employees among members. (Ex. 27 at 4-5; Ex. 28 at 4-5; Ex. 29 at 4-5) One was hourly salaried employees. From 2004 through September 2015, according to Bertucio and Ramsey, Ramsey was the only hourly employee. (Ex. 2 at 17-18; Ex. 4 at 5-6) Aloise thus deliberately placed himself and the union in the position of negotiating as the employer-selected-employee representative the wages and benefits that the employer, his friend Bertucio, would pay his own sister, the only employee in that category in eleven years. As additional evidence of its sham nature, when the

first contract expired in 2007, Aloise agreed with Bertucio, according to the contract they signed, to a reduction of Ramsey's hourly pay in the second contract, reducing her wages by 9%, from the $22.00 an hour she supposedly was paid under the first contract. (Ex. 35; Ex. 27 at 5; Ex. 28 at 5) The second contract set her hourly rate back to $20.00 an hour in its first year. (Ex. 35; Ex. 27 at 5; Ex. 28 at 5) Aloise agreed to this without any discussion with the only employee allegedly impacted and with no member vote. (Ex. 4 at 10)[28] In addition, for the other class of employees, their compensation, base pay and the lack of a bargained for commission and commission rate sales persons would earn, remained the same in the new five year contract as it had been in the three prior years of the first contract. (Ex. 27 at 4; Ex. 28 at 4) In contrast to the compensation provisions, the employer contributions to the benefit fund were adjusted. (Exs. 27-28) Aloise was the sole union representative for GrandFund. (Ex. 1 at 57-63) That this contract was not the result of arms-length negotiations was evidenced from its terms, Aloise's past experience as a negotiator and the lack of a reason for the Local to agree, as he did, to lower hourly wages. Indeed, Aloise proclaimed during his IRB sworn examination, "I think I can – I'll bargain anybody," except apparently his friend Bertucio. (Ex. 1 at 82) That Ramsey's hourly rate was reduced in the contract when the union representative had no discussion with her, the sole employee who was effected in a two person shop, evidenced a sham arrangement between the Local and the employer.

There was further evidence the contract did not govern Ramsey's wages. She refused at her 2015 IRB testimony under a bogus claim of privacy to state how much she currently made for the 40 hour week she claimed to work. (Ex. 4 at 7-9) Indeed, Ramsey's attorney acknowledged

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[28] Under the 2007 collective bargaining agreement, the hourly rate for clerical employees decreased by 9% from $22.00 per hour or $880 a week to $20.00 per hour or $800 a week. (Exs. 35, 27-28) Under the contracts, clerical employees would be back to the same pay required at the end of the 2004 contract in 2009. (Exs. 35, 27-28)

that the Local was unaware of how much she was paid, thus admitting the contract did not govern her compensation. (Ex. 4 at 8-9) The requested information as to her pay was necessary to determine if the contract governed her wages.[29] Article XVI, Section 2 of the Local 853 Bylaws was violated if a member was not paid according to the contract. (Ex. 46 at 21)[30] Ramsey's refusal to supply this relevant information permits an inference to be drawn that her compensation was not determined pursuant to the contract. (Ex. 4 at 7-9) E.g., Brink's, Inc. v. City of New York, 717 F.2d 700, 710 (2d Cir. 1983); RAD Services, Inc. v. Aetna Cas. Sur., Co., 808 F.2d 271, 280-81 (3d Cir. 1986).

In the contracts, in addition to the hourly employee classification, there was a classification for employees who were sales representatives. (Ex. 27 at 4; Ex, 28 at 4; Ex. 29 at 4) For these employees, for the eleven years they covered, each of the three contracts provided identically, "Monthly Base $5,000, Commissions To be determined." (Ex. 27 at 4; Ex. 28 at 4; Ex. 29 at 4) This language did not even establish there would be any commissions. The open commissions language in each contract was another indication that the contracts were shams. Aloise routinely negotiated both the receipt of a commission and commission rates for salesmen members with other employers. (Ex. 56 at 36-37; Ex. 57 at 35-36; Ex. 1 at 60) There were no other contracts at

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29 Her claim that the information was private and not subject to the IRB's ability to gather information is unpersuasive. If she was actually paid contract wages, her salary could be determined mathematically and would be publicly known to anyone who reviewed the contract. Only a salary not governed by the contract would have been unknown and not capable of being determined. As a consequence, her failure to provide information regarding how much she made supports an inference that such testimony would have disclosed she was not paid pursuant to the contract. There can be no more central issue between a union and its members than whether the union is enforcing the contracts to which it agreed ensuring that a union member was receiving her collectively bargained wage rates.

30 Article XVI, Section 2 of the Local's Bylaws provides:

> Every member must conform to and abide by the rules concerning wages and hours, etc. as agreed upon by the Union. Any member found guilty by the Executive Board of entering into private or personal contracts with their Employers as to wages, hours and conditions, shall be subject to a fine as determined by the Executive Board, in addition to any other penalties deemed necessary by the Executive Board after the member has been given a full and fair hearing. . .
>
> (Ex. 46 at 21)

the Local with open commission rates, let alone contracts leaving open the question of whether there would be a commission above base salary for a sales employee. (Ex. 1 at 60) In fact here, Bertucio did not pay commissions guided by any rates. (Ex. 2 at 7-8, 16-17; Ex. 3 at 10-12) He paid bonuses, if he wanted to pay anything to his employees. (Ex. 2 at 17; Ex. 3 at 11-12) Whether the bonuses were awarded and, if so, their size, he determined in his sole discretion. (Ex. 2 at 17; Ex. 3 at 11-12) Aloise, experienced in negotiating commission rates for other members, allowed his friend, the employer, to solely dictate without any union input for over a decade whether he would pay a member covered under the contract a commission and, if he did, how much. (Ex. 1 at 59-67) Those allegedly negotiated compensation provisions in each contract were further evidence the contracts were shams.

In 2012, Aloise improperly allowed his friend Bertucio to become a member of Local 853. (Ex. 30) Bertucio's initiation fee was paid on May 11, 2012. (Ex. 30) The initial contract and the two subsequent ones provided the union was the sole collective bargaining agent for "all office employees except all regularly elected officers and appointed officers of the Employer." (Ex. 27 at 1; Ex. 28 at 1; Ex. 29 at 1) This provision excluded Bertucio, as Aloise admitted. (Ex. 1 at 67-68) Indeed on his union membership application, Bertucio described himself as "President", a category the collective bargaining agreement eliminated from membership. (Ex. 30; Ex. 29 at 1) In addition, on the 2012 subscriber's agreement for the Supplemental Income Trust Fund which Aloise also signed, Bertucio again described himself as the President. (Ex. 58) During his sworn examination, Bertucio confirmed that he was the GrandFund President. (Ex. 2 at 6) Bertucio signed the first contract and all the subsequent contracts, on behalf of GrandFund. (Ex. 27-29) Under the terms of each contract, GrandFund executives were excluded from union membership. (Ex. 27 at 1; Ex. 28 at 1; Ex. 29 at 1) The union could not bargain for Bertucio as an employee

against Bertucio as an employer.[31] Moreover, as the sole owner of GrandFund, obviously Bertucio did not delegate to the Local the exclusive authority to negotiate his compensation from GrandFund as required under Article XIV, Section 3 of the IBT Constitution for membership. (Ex. 2 at 19; Ex. 33)[32]

Indeed, by its terms, the 2012 contract that Bertucio signed did not govern the President's compensation. (Ex. 29 at 1, 4-5) In his membership application, Bertucio falsely represented he delegated sole authority to Local 853 "for purposes of collective bargaining." (Ex. 30)

Aloise admitted Bertucio should not have been a member. (Ex. 1 at 67-68) Yet, Aloise knowingly violated the IBT Constitution and the collective bargaining agreement to allow his friend's membership. At his sworn testimony, Aloise misleadingly claimed he did not learn Bertucio was a member until 2015. (Ex. 1 at 67) The evidence contradicted that claim. Prior to Bertucio joining in 2012, Lanini alerted Aloise that Bertucio was considering becoming a member. (Ex. 63) On March 5, 2012, Lanini sent an email to Aloise in which she stated, ". . . I'm not sure if Charlie was joining us, as a member of 853, did he tell you??? I can ask him if need be. . .." (Ex.

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31 Article IV, Section 6 of the Local 853 Bylaws provided in pertinent part: "Every member by virtue of his membership in the Local Union, authorizes his Local Union to act as his exclusive bargaining representative with full and exclusive power to execute agreements with his employer governing terms and conditions of employment . . .." (Ex. 46 at 3)

32 Article XIV, Section 3 of the IBT Constitution provides:

> Every member covered by a collective bargaining agreement at his place of employment authorizes his Local Union to act as his exclusive bargaining representative with full and exclusive power to execute agreements with his employer governing terms and conditions of employment and to act for him and have final authority in presenting, processing, and adjusting any grievance, difficulty or dispute arising under any collective bargaining agreement or out of his employment with such employer in such manner as the Local Union or its officers deem to be in the best interests of the Local Union, all subject to Article XII and other applicable provisions of the International Constitution relating to such matters.

(Ex. 33)

63) When responding, Aloise made no objection to Bertucio's membership. (Ex. 63)[33] Aloise's claim he did not know Bertucio was a member was not credible given his longstanding 20 year relationship with Bertucio, Aloise's frequent contact with Lanini, the extraordinary nature of an employer's executive being a member, the shop Aloise served having only three members and that Lanini specifically alerted him to Bertucio's membership.[34]

Bertucio's claimed reason for joining the union was that after a Health and Welfare Fund audit of GrandFund, he received a call from the Fund and was told, ". . . if you want to maintain your benefits, you have to join the union." (Ex. 2 at 20) Although the first subscriber's agreements had indicated Bertucio was to receive benefits as a non-union supervisor (Exs. 41-42; Ex. 2 at 18-19), the two subsequent agreements in 2007 and 2012, indicated no non-bargaining unit employees were to receive benefits. (Exs. 59-62) Thus, as he was informed, Bertucio was not eligible to receive benefits. Despite the lack of eligibility under the contracts and subscriber's agreements from 2007 forward, he improperly had continued to receive them without being a member. Aloise cured Bertucio's issue with the Fund, as was his wont, by violating the inconvenient rule found in the IBT Constitution and ignoring the contract language to allow Bertucio's membership.[35]

In 2012, when he allowed Bertucio to join the Local, Aloise acted to protect Bertucio's continued improper receipt of fund benefits. (Ex. 63) Aloise's grant of union membership to

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[33] There is no question that Aloise received and read Lanini's email at the time. In the same email, Lanini also informed Aloise that a few changes in the GrandFund contract were needed including changing the name from LLC to corporation. (Ex. 63) Lanini asked Aloise to whom the changes should be sent and Aloise responded, "Me or Jennifer." (Ex. 63) In 2012, Jennifer Casqueiro was a secretary at Local 853. (Ex. 64)

[34] From January 2012 until October 2014, Aloise and Lanini had 136 calls between Aloise's cellular telephone and Lanini's. (Ex. 65) Eight of these calls in 2012 were prior to Bertucio paying an initiation fee to the Local on May 11, 2012. (Exs. 30, 65) Lanini was also frequently at Local 853 offices to confer with Aloise. (Ex. 5 at 51-53) These contacts do not include non-cell phone calls, emails or meetings.

[35] This was consistent with Aloise's unfair labor practices and ignoring IBT Constitutional requirements regarding member votes and involvement in negotiations, discussed above, and his pervasive rules violations to support his favored candidate in the Local 601 election, discussed below.

Bertucio and his allowing Bertucio to continue as a member were consistent with his earlier action to allow Bertucio as a non-member to receive benefits under the initial contract. Aloise had long been protective of Bertucio's financial interests. In 2003, for example, he interceded to stop the International General Secretary Treasurer from prohibiting locals from doing business with a service provider with which Bertucio's business was intertwined. (Ex. 21) Both that intervention and the union membership were Aloise favors of financial value to Bertucio.

That the GrandFund contract was a scheme among other things to secure Teamster benefits and not an actual arms-length representation of employees with an employer was fully shown by Aloise's dealing with another GrandFund employee's membership request. In 2013, Aloise received a letter from Neal Wilkinson ("Wilkinson"), who represented he ". . . joined Charles Bertucio as a partner with GrandFund, LLC". (Ex. 66)[36] Wilkinson requested that he be provided with immediate health insurance coverage from the Fund, instead of having to wait the normal three month period for new members. (Ex. 66) A GrandFund partner would not have been covered under the contract or eligible for membership under Article XIV, Section 3 of the IBT Constitution. (Exs. 29, 33) When Aloise asked, Lanini did not respond to his request to describe what Wilkinson's position was. (Ex. 67)[37] Aloise on the information he possessed would have had to determine that Wilkinson was not covered under the contract and was therefore ineligible for membership and benefits from the Fund under the in effect subscriber's agreements. (Exs. 29, 61, 66) Despite this, Aloise instructed the Fund administrator to include Wilkinson under the benefit plan as soon as GrandFund made a contribution on his behalf. (Ex. 68) Wilkinson became a Local 853 member on March 15, 2013. (Ex. 40) As Aloise who signed it knew, the subscriber's

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[36] Wilkinson worked out of his house in Chicago. (Ex. 2 at 16-17)

[37] In response to Aloise's email stating, "What does this guy do?", Lanini responded, "This is the new guy Charlie just hired . . . is that your question???" (Ex. 67)

agreement in effect at that time with the TBT for health coverage did not include non-bargaining unit employees at GrandFund. (Ex. 61)

Further evidencing the sham nature of the contract, Aloise asked the employer if the amount of the Local initiation fee Aloise proposed for Wilkinson to join the union was acceptable to it. (Ex. 67) On February 5, 2013, Aloise sent an email to Lanini which stated, "$750 initiation????". (Ex. 67) Lanini responded, "That's OK with me . . . Do you want me to tell Charlie and get it sent in???" (Ex. 67) Aloise told Lanini that the Local would send Wilkinson a letter. (Ex. 67)

Under the Local's Bylaws, initiation fees were solely a matter of internal union concern. (Ex. 46 at 20) That fee was not a matter covered in collective bargaining agreements. (Exs. 29, 56, 57) That Aloise sought employer acquiescence in an internal union matter was additional evidence of a collusive arrangement that was not an arm's length collective bargaining relationship. (Ex. 67)

Further evidencing the collusive arrangement between Bertucio and Aloise was that on Saturday, December 20, 2014, shortly after Aloise read about an IRB matter involving an improper collective bargaining agreement, Aloise emailed Bertucio alerting him that for the contract the Local and GrandFund were to enter into in 2015, unlike previously, he and his friend would now have to "have actual negotiations and a vote, signed by all people covered by the contract or I have to disclaim interest". (Ex. 55; Ex. 1 at 62-63)[38] Aloise and Bertucio met for breakfast on Christmas Eve in 2014, reportedly to discuss the GrandFund contract. (Ex. 69)[39] At that time there were

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[38] This was not copied to anyone else at GrandFund or Local 853. (Ex. 55)

[39] They apparently exchanged private communications for holidays. For example, in 2014, they had a personal email exchange on Thanksgiving Day evidencing their personal relationship. (Ex. 190)

only three members, including Bertucio, at the shop for which Aloise was the business agent. (Ex. 34)[40] Aloise claimed he did not know then that Bertucio was a member. (Ex. 1 at 67)[41] As of November 4, 2015, there had been no vote on a new contract to replace the one that expired on February 28, 2015. (Ex. 1 at 61-64; Ex. 29)

The Local produced a document entitled, "Contract Proposals" relating to GrandFund and dated February 19, 2015. (Ex. 32) This document was an attempt to cloak the GrandFund relationship with an appearance of legitimacy that Aloise had alerted Bertucio would now be needed such as "actual negotiations." (Ex. 55) At that time, Aloise was the only Local representative for GrandFund. (Ex. 1 at 57-63) It had three members: Bertucio, Bertucio's sister, the only salaried employee, and Lanini. (Exs. 30, 34, 36, 38) Ramsey never spoke on any occasion with Aloise. (Ex. 4 at 10) Aloise claimed he did not know Bertucio was a member. (Ex. 1 at 67) These demands could not have been the result of a Local representative meeting with the employee members to discuss their demands as the Bylaws required. (Ex. 46 at 25-26; Exs. 47-48)

1. Analysis

Aloise brought reproach upon the IBT by entering into a collusive arrangement with an employer that resulted in sham collective bargaining agreements with the GrandFund and violations of the IBT Constitution and Local Bylaws. He allowed the company owner to become a member of the IBT to obtain health insurance and other benefits for members for which the owner was not eligible. All the agreements entered into between GrandFund and Local 853 excluded company executives from union membership. (Ex. 27 at 1; Ex. 28 at 1; Ex. 29 at 1)

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[40] Under Article XIV, Section 4 of the Local 853 Bylaws, a supervisor was not to participate in contract negotiations or vote on it. (Ex. 46 at 19) Aloise never informed Bertucio, a member at this time, of this since he claimed he did not know Bertucio was a member. (Ex. 1 at 67; Ex. 30)

[41] Aloise claimed that he did not know Bertucio was a Local 853 member until after Bertucio received an IRB sworn examination notice. (Ex. 1 at 67) Bertucio's sworn examination notice was dated September 4, 2015. (Ex. 74)

Aloise also violated the Bylaw and Constitutional requirements for member ratifications and involvement in negotiations of collective bargaining agreements. In addition to being offenses, these violations of the Bylaws and the IBT Constitution were further evidence that the agreements were shams. In re: Jerry Morrison, Decision of the Local 377 Executive Board at 2 (Aug. 11, 1999) (Ex. 70); In re: Robert F. Holmes and Thomas Werthmann, Decision of the Local 337 Executive Board at 18-19, 22 (Nov. 23, 1999) and Supplemental Decision of the Local 337 Executive Board at 18 (March 13, 2000). (Exs. 344 and 345) Moreover, the terms of the contracts did not govern the members' compensation which was additional evidence that the agreements were shams. In re: Christopher Roach, Joint Council 43 opinion at 3-4 (Feb. 12, 1999) (Ex. 71)

Bertucio was the sole owner of the business. (Ex. 2 at 19) As such, Bertucio did not delegate to the union authority to bargain for his compensation and terms of employment against himself. He was also therefore ineligible to be a member under Article XIV, Section 3 of the IBT Constitution. (Ex. 33) The contracts themselves also excluded him. (Exs. 27-29)

Even before the 2004 collective bargaining agreement, Aloise had dedicated himself to growing and protecting his friend's business with the IBT and its Funds. Funds for which Aloise was a union Trustee were the "anchor tenants" for Bertucio's pharmacy benefits manager business. (Ex. 72) When Bertucio's business was threatened, Aloise was his shield within the union. As Aloise informed Bertucio, he protected his business from the International General Secretary-Treasurer's intention to prohibit Teamsters entities from doing business with Bertucio's companies. (Ex. 21)

In 2004, before there were any employees at Bertucio's company who gave Local 853 authority to bargain for them or who were Local 853 members, Aloise entered into an agreement with Bertucio to place both his company and Bertucio in the funds and then subsequently an

alleged collective bargaining agreement. (Exs. 27, 36-38, 41-42; Ex. 2 at 18-19) The employees had not selected the IBT as their representative to negotiate on their behalf with the union negotiator's friend who owned the company and selected the union. Aloise assisted Bertucio in committing unfair labor practices and caused Local 853 to also commit one in denying employees their rights under 29 U.S.C.§157 to select their representative. 29 U.S.C. §§ 158(a)(1) and (2), 158(b)(1)(A); Int'l Ladies Garment Workers' Union v. NLRB, supra, 366 U.S. at 736-39 (unfair labor practice to recognize union not selected by majority of employees; contract entered into void even if subsequently accepted by a majority; union also committed an unfair labor practice). As an added benefit for his friend, Aloise also allowed Bertucio, a non-member, to participate in the IBT funds. (Ex. 41-42)[42] When Bertucio needed union membership in 2012 to maintain those benefits he had been receiving improperly since 2007, Aloise colluded with him to permit Bertucio in violation of the IBT Constitution to join Local 853. (Ex. 2 at 17-19; Exs. 59, 63, 30; Ex. 33 at 120)

As summarized above, there were no documents supporting Aloise's claim the members voted on the contracts without any union representative present. (Ex. 1 at 61-64)[43] Nor did Aloise follow the Bylaw requirement for meeting with members prior to negotiations. His failure to follow his Bylaw obligations showed Aloise understood the contract was a sham arrangement with the owner. The falseness of his claim that he did obey the Bylaws was highlighted in the alleged

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[42] The 2004 Application and Subscriber's Agreements for the TBT Health and Welfare plan and the Retirement Security Plan both state that contributions will be made by the GrandFund to cover "non-collectively bargained employees." (Exs. 41-42) Aloise signed both forms on behalf of the Local. (Exs. 41-42)

[43] Moreover, when such a vote included only two members, one of whom was the owner's sister, it is doubtful it would be effective under the Bylaws and Constitution. The absence of a record showing who voted, if management was at the vote and Aloise's lack of credibility since he acknowledged his belief lying to maintain power is appropriate (Ex. 1 at 141-142) undercuts his unsupported claim there were such votes.

February 19, 2015 contract demands Aloise allegedly made on Bertucio. (Ex. 32)[44] In 2015, out of the three members at the GrandFund that Aloise represented then, he never spoke to one of them, Ramsey, another was the owner Bertucio, whom Aloise claimed he did not know was a member and who would have been ineligible to participate in any discussion of members' demands, and the third was Lanini. (Ex. 4 at 10; Ex. 1 at 67; Ex. 46 at 19-20) Obviously, Aloise held no required meeting with the members to discuss their bargaining demands, but as the December 20 email he sent to Bertucio evidenced, he was attempting to disguise the sham arrangement by now paying lipservice to requirements in the past he blatantly had ignored. (Ex. 55) [45]

As noted, absent contemporaneous documentary corroboration for his statements, Aloise can not be believed for any factual assertion in his self-interest. Aloise has admitted that he believed an incumbent, such as himself, should lie to keep power. (Ex. 1 at 141-142) In addition, he has been found to have lied in Consent Order proceedings. Certain Campaign Contributions By Officers and Employees of Local Union 853, 2006 ESD 341 (Aug. 23, 2006) (Ex. 286 at 6, 19) There, he engaged in an elaborate scheme to divert members' dues money to put into campaign coffers under a false claim it was pay to officers for unused vacation they were entitled to cash in. (Ex. 286 at 4-6, 19-20) He lied about the motive for doing this. (Ex. 286 at 6-7) Given his proven lack of credibility and his professed and practiced belief in the utility of lying to maintain power, with his union positions at stake Aloise has ample motive to follow his philosophy and, consistent

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[44] In his submission, Aloise claimed to have "consulted" the GrandFund members before meeting with Bertucio to make changes to the contract. (Ex. 183 at 8 ; Ex. 184 at 1-3) Contrary to this claim, Ramsey, the only hourly employee, testified that she never spoke to any union representative. (Ex. 4 at 10)

Indeed, the only change of substance ever made was to Ramsey's compensation when it was reduced and the contribution rates were adjusted to meet benefit fund requirements. (Ex. 27 at 4-5; Ex. 28 at 4-5; Ex. 29 at 4-5)

[45] Bertucio was not eligible under Article XIV, Section 4 of the Local 853 Bylaws as a supervisor to participate in union negotiations and vote on the contract. (Ex. 46 at 19) In addition, Aloise claimed not to know Bertucio was a member. (Ex. 1 at 67)

with his past conduct, make false claims to escape liability for his misconduct. (Ex. 1 at 141-142) The absence of corroborating records that should have been created in the ordinary course of business further undercuts his credibility.

Throughout the life of these agreements, Aloise through his actions showed these were not the results of arm's length negotiations between the union and the employer. In the second contract he signed, he had the Local agree to the reduction of Ramsey's salary. (Exs. 27, 28, 35) There was no evidence in the Local's possession that Aloise had any information about a downturn in Bertucio's fortunes at GrandFund that would have justified the Local agreeing to the reduction of the salary of the employer's lowest paid union member. In another example, Aloise solicited the employer's approval for the size of the initiation fee for a member, a matter that was solely union business. (Ex. 67) Further evidencing that it was a sham, Aloise in 2014, having previously agreed to three earlier contracts with his friend, alerted Bertucio after reading of an IRB action on a sham contract that for the fourth contract they would now have to engage in "actual negotiations", as opposed to what they had done in the past. (Ex. 55; Ex. 1 at 62-63) That the reading of that IRB opinion would cause him to send that particular communication to that particular employer evidenced Aloise knew the prior contracts with GrandFund were shams.

Through his violations of the IBT Constitution, the Local 853 Bylaws, federal labor law and his failure to secure relevant contract terms and leaving others unenforced, Aloise evidenced the sham nature of the Local 853 contracts with the GrandFund. His misleading testimony as to when he learned of Bertucio's membership and how the initial contract came to be, was additional evidence that this collusive arrangement was purposeful because he attempted to conceal troubling facts about his conduct.

Because of the Local 853 contract and his membership, not only was Bertucio able to secure health insurance and other benefits for himself and his employees, including his sister, through a Teamster fund, he also was permitted to claim GrandFund was a union employer. (Ex. 27 at 4-5; Ex. 28 at 4-5; Ex. 29 at 4-5) In addition, his sales employee Lanini and himself were able to attend IBT meetings at which many of their sales targets, the union officers who were union fund trustees, would congregate. (Ex. 3 at 19-20; Ex. 2 at 23, 29-33)[46] The ultimate sales targets were the funds to which GrandFund marketed the services and products of its business partners. (Ex. 1 at 72-73, 75-76)

Union membership that gave salespeople access to union officials with influence in Funds was a substantial advantage for someone in Bertucio's business. In an opinion on an IRB-recommended charge against an owner who entered into a sham contract with a Local providing him with union membership and who also had a second company that provided financial services to Teamster funds, Joint Council 43 noted the owner "was an investment entrepreneur who concluded that joining the Union would in some way further his opportunities to exploit or deal in investments held by Teamster entities and/or their jointly administered trusts." In re: Christopher Roach, Joint Council 43 opinion at 6. (Ex. 71 at 6) Roach was found to have violated Article XIV, Section 3 of the IBT Constitution (member must authorize the Local union to act as their exclusive bargaining representative in negotiating and administering collective bargaining agreement). (Ex. 71 at 5) He was barred from the union. (Ex. 71 at 6)[47] In another IRB-recommended matter, a union officer was found to have allowed a company owner that sold insurance to IBT members to

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[46] One of the benefits of membership to Lanini as a salesperson was the ability to attend IBT events such as the Unity Conference. (Ex. 3 at 20; Ex. 1 at 72, 82) This was a significant advantage for those looking to convince IBT decision makers to buy products they were pushing. It had been the motivation for sham contracts at other Locals in the past. In re: Roach (Ex. 71 at 3-6); In re: Slawson, Sr. (Ex. 73 at 10, 25-26) She also attended the IBT Women's Conference. (Ex. 358)

[47] The IRB found the Joint Council's sanction not to be inadequate. (Ex. 71)

enter into a sham contract to give the employer greater access to his company's intended market. In re: Slawson, Sr., Decision of IBT General President at 26 (April 1, 2013). (Ex. 73) In Slawson, Sr., the General President found that the sham nature of a collective bargaining agreement was demonstrated by among other evidence: the officer's failure to hold contract proposal meetings, the officer's failure to conduct a contract ratification vote and that the employer retained complete discretion regarding employee compensation. In re: Slawson, Sr., Decision of the IBT General President at 26. (Ex. 73)[48]

D. Aloise Solicited and Received Things of Value From Employers in Violation of Federal Law, the 1989 Injunction and the IBT Constitution

During 2013, while an International Vice President, Aloise illegally requested Teamster employers to provide him with things of value. He requested that two different employers provide a job for his unemployed difficult-to-place cousin. He also requested one of those to provide six tickets for another Teamster official who wanted to attend an exclusive industry sponsored Playboy Super Bowl party. (Exs. 78, 87, 89) These requests for and receipt of things of value were in violation of 29 U.S.C. §186 (a) and (b).[49] These were acts of racketeering that violated the

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[48] The IRB found the General President's decision not inadequate. (Ex. 73)

[49] 29 U.S.C. §186(a) and (b) provides in pertinent part:

(a) It shall be unlawful for any employer or association of employers or any person who acts as a labor relations expert, adviser, or consultant to an employer or who acts in the interest of an employer to pay, lend, or deliver, or agree to pay, lend, or deliver, any money or other thing of value—

(1) to any representative of any of his employees who are employed in an industry affecting commerce; or

(2) to any labor organization, or any officer or employee thereof, which represents, seeks to represent, or would admit to membership, any of the employees of such employer who are employed in an industry affecting commerce; or

* * *

(b)

permanent injunction in the Consent Order in United States v. IBT. 18 U.S.C. §1961(1). (Ex. 158 at 6)[50] As will be shown, these requests were part of an expectation that Aloise had that employers, vendors to Funds, and IBT endorsed politicians should provide personal favors at his request because of his union power and the union actions he could influence to benefit or harm them.

In January 2013, Aloise on short notice solicited tickets for admission to an exclusive non-public party during Super Bowl weekend in New Orleans from an IBT employer with which, among other things, he was involved in negotiations of a contract for another Local. (Exs. 77-78; 84, 88-89) His solicitation was made only two days before the event. (Exs. 177, 84, 90) At Aloise's direction, the employer arranged for the admission of another high ranking IBT official and the official's wife and friends to the event. (Exs. 89-90, 332) Aloise also subsequently requested that same employer and another Teamster employer to provide a job for his relative who had difficulty finding employment. (Exs. 102, 124, 98, 109) The tickets and the jobs Aloise sought were things of value. The solicitations were in violation of the Taft-Hartley Act, 29 U.S.C. §186(b)(1), which prohibits an employee representative from requesting a thing of value from an

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> (1) It shall be unlawful for any person to request, demand, receive, or accept, or agree to receive or accept, any payment, loan, or delivery of any money or other thing of value prohibited by subsection (a) of this section.

[50] Article XIX, Section 7(b)(11) of the IBT Constitution prohibits officers and members from "[c]omitting any act of racketeering activity as defined by applicable law." (Ex. 33) Article XIX, Section 7(b)(13) of the IBT Constitution and the Code of Conduct, unlike the law, do not prohibit IBT officers from making the requests; they only prohibit successful solicitations. Compare, Article XIX, Section 7(b)(13) of the IBT Constitution and Ex. 192 at 10 with 29 U.S.C. §186(b) (quoted in footnote 49 above). The IBT Constitution prohibits "accepting money or other things of value from any employer or any agent of an employer, in violation of applicable law." (Ex. 33) The IBT's 2007 Code of Conduct provided the following:

> International Union policy prohibits officers, employees and representative from accepting any gift or thing of value from any employer, employer representative, service provider, vendor or potential vendor in violation of applicable law or in circumstances that would create a conflict of interest or the appearance of undue influence. We must avoid any gift or situation that violates the law or creates the appearance that decisions concerning the expenditures of International Union funds or other International Union decisions are subject to any improper influence.

(Ex. 192 at 10) The IBT Code of Conduct also prohibits both actual and apparent conflicts of interest and states, "[n]o personal benefits, whether direct or indirect, are to be derived as a result of reaching business decisions on behalf of the International Union." (Ex. 192 at 10-11)

employer whose employees the union represented. One of the employers, with whom at the time of the requests he was actively negotiating union matters, provided Aloise with the things of value he requested: six tickets to the Playboy Super Bowl party and the job for his relative. When his relative proved not capable of doing the job, Aloise made a third request to that employer for a thing of value that it honored by keeping his relative employed. (Exs. 102, 347) All of these requests and receipts of things of value were acts of racketeering forbidden for an IBT member to commit under the Consent Order in United States v. IBT. (Ex. 158 at 6-7)

1. Tickets to the 2013 Playboy Super Bowl Party

The IBT represented more than 2,000 workers at Southern Wine and Spirits ("SWS"), the nation's largest liquor distributor. (Ex. 75) Aloise was the lead Teamster officer on SWS matters within the union. (Ex. 76) Aloise was also a Local 853 business representative for its members who were SWS sales employees. (Ex. 1 at 98) Robert Strelo, the Local's President, was a business representative for the Local members who were SWS hourly employees. (Ex. 1 at 87, 94, 98) From at least January 2013 through the fall of 2013, SWS was actively negotiating multiple issues with Aloise as the union representative for Local 853 and other locals. (Exs. 77-78, 81, 232; Ex. 1 at 90, 95-96)

In January 2013, Aloise was involved in negotiations between SWS and Local 792 in Minnesota whose principal officer was Larry Yoswa ("Yoswa"). (Exs. 77-79) Aloise became involved in that Local's negotiations with SWS in January 2013 at the company's request. (Ex. 195) The company believed that one of their executives was about to make a deal with the Minnesota Local that would cost it more than if Aloise were on the union side. (Ex. 195) The company's outside labor lawyer informed Aloise that the SWS executive was going to "throw

more money at them [the Minnesota Local] to get this done" but SWS' Executive Vice President and Chief Administrative Officer agreed with the lawyer that they had to "beg [Aloise] to get reinvolved and develop a real strategy." (Exs. 195, 372) On January 30, 2013, Aloise and Yoswa met in Chicago with SWS representatives regarding the Local 792 contract. (Exs. 78, 80) In an email that day to Wayne Chaplin ("Chaplin") the President and CEO of SWS, Stuart Korshak ("Korshak"), an attorney representing SWS at those negotiations, wrote:

> Bill and I have been meeting at our Chicago office with Rome Aloise and the Minnesota Teamster leader Larry Yoswa today over the contract Yoswa and his members rejected unanimously last fall when SWS made its first proposal. Yoswa is weak and follows his members instead of leading them and I doubt he would or could ever agree to a fair contract with SWS by himself.. Rome has lead the negotiations for the Minnesota all day and caucused with Yoswa several times when he was balking at a rationale deal. We will get a good deal done tonight. When you talk to Rome about Washington and California legislation, you should thank him for his assistance on Minnesota. It would have continued to be a mess without him. . . . Also, Rome wants to get six tickets for Hoffa's team to the liquor industry's party at the Super Bowl this weekend. Can SWS help?

(Exs. 78, 86) Korshak forwarded this email making the request on his behalf to Aloise. (Ex. 78)

In a January 31, 2013 email to SWS Executive Vice President Lee Haber, that Korshak also forwarded to Aloise, Korshak described the meeting with Aloise on January 30 as follows:

> Rome was terrific yesterday. . . . We told 792 that we won't get out of line with Johnson and couldn't care less what JJ Taylor is paying because they are in a different industry and that we don't care what Wirtz is paying because it is a bit player in liquor. We told him we wouldn't be his stalking course and lock into something rationale and long term now and then have Johnson take him apart again and have SWS be the high cost player and locked it high in Minnesota. He wanted to walk out on us all through the days but Rome wouldn't let him and finally forced him to take what we offered over the weekend for the first year, make it good for 14 instead of 12 months so we get 2 months behind Johnsons expiration date, and accept less of a bonus than the additional money we were prepared to give before the meeting as our final bottom line. He also committed publically this time in front of Rome to recommend this deal and get it done. . . . You should get Dale's take off the record as to the role Rome played and what would have

> happened with Local 792 if you hadn't stopped what was going on and asked me to get Rome back in the middle and controlling this. . . .

(Ex. 81) As discussed below, Korshak appears to have frequently forwarded to Aloise communications between Korshak and his client.

The company secured the tickets Aloise requested. SWS wanted to reward Aloise for his assistance in keeping a troublesome local official in line with the company's expectations. (Exs. 78, 81, 87) At the time of Aloise's request to the lawyer he was allegedly negotiating against, the contract was still pending member approval. (Exs. 78, 244) Aloise's solicitation of the tickets from the IBT employer violated the criminal statute. (Exs. 177, 332) Indisputably, a union official's receiving something of value from an employer as a reward for controlling a subordinate that the employer finds difficult additionally violated 29 U.S.C. §186(b) and the IBT Constitution. (Ex. 33) United States v. Cervone, 907 F.2d 332, 347 (2d Cir. 1990)

SWS President Chaplin responded to Korshak's informing him of Aloise's request for tickets by asking for the name of the event for which Aloise wanted the tickets and who was running it. (Ex. 78) Korshak subsequently sent Aloise an email with a description of the "Playboy Super Bowl Party presented by Crown Royal" to be held on February 1, 2013, and asked "Is this it?" (Ex. 82) Aloise responded that was probably the party. (Ex. 82)[51]

On January 30, 2013, Willie Smith ("Smith"), the Executive Assistant to IBT General President Hoffa, wrote to Aloise that IBT permission had been granted for Aloise's requested trip to Paris to attend a labor conference an employer sponsored. (Ex. 339; Ex. 85; Ex. 184 at 13)[52]

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[51] Aloise also forwarded Korshak's "Is this it?" email to RANGER1999@aol.com, stating, "This must be the one." (Ex. 83) Aloise used this email address for Richard Leebove, a consultant to the IBT. (Exs. 189, 119)

[52] Before his trip to Paris, Aloise consulted with his friend Bertucio about Paris sightseeing tours for his free time. (Ex. 182) Bertucio provided the name of a guide. (Ex. 182)

Aloise responded, "Working on your tickets to the Liquor party. In your name-right????" (Ex. 84)[53] Smith responded that the tickets should be in his name. (Exs. 84, 90) It was a violation of the law for these high ranking IBT officers to be soliciting a thing of value from an IBT employer. 29 U.S.C. §186(b).

In a January 31, 2013 email Korshak wrote to SWS President Chaplin, "I think it must be the Playboy Crown Royal event (description below). Rome would like to get one of Hoffa's key guys 6 passes or tickets to this event. His name is WC Smith. I told Rome you would try to help." (Ex. 87) On behalf of Chaplin, on January 31 another SWS employee asked Mark Hubler ("Hubler"), the President of Diageo of North America ("Diageo"), for help getting the six tickets. (Exs. 87, 91)[54] Recognizing the value of what was being requested, the SWS employee noted, "Happy to pay" in the email to Hubler. (Ex. 87) Hubler asked Chaplin under whose name the tickets should be left and how many tickets were needed. (Ex. 87) Chaplin, the SWS President, responded, "6 for WC smith. Thanks for your help" (Ex. 87)

In a second January 31, 2013 email to SWS President Chaplin, Korshak stated, "I told him [Aloise] that you are working on getting Hoffa's guy the passes for tomorrow night's Super Bowl

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53 Smith is also the President of Local 891 in Jackson, Mississippi. (Ex. 145)

54 Diageo was the owner of Crown Royal. (Ex. 161) SWS was a distributor of Crown Royal. (Ex. 162) Aloise's request was to SWS, a Teamster employer. SWS obtained for Aloise the tickets through Diageo and arranged for delivery to Aloise's nominee. Aloise argued in a submission to the IRB that Diageo was a non-Teamster employer and therefore he had no liability for his request to a Teamster employer for a thing of value during negotiations and that employer's arrangement of delivery of the tickets to Smith through a non-union employer. (Ex. 183 at 31) He relied on a case where, for its own motives, and not at the behest of a union employer, a non-union employer provided the Teamster official a thing of value. The court found under those circumstances the statute was not violated. United States v. Cody, 722 F.2d 1052, 1057-59 (2d Cir. 1983) That was not the situation with Aloise, Smith and SWS. Here, it is akin to Aloise requesting the employer for a bracelet from Tiffany's and the employer arranging for Tiffany's to deliver it to his designee. The violative act was the union official's request for a thing of value to the employer of members he represented. Its delivery per his directions was also a violation of 29 U.S.C. §186(b).

Party in New Orleans. He said to thank you." (Ex. 88) Korshak included this email in a string of other company emails he forwarded to Aloise that day. (Ex. 88)

SWS President Chaplin secured the six admissions Aloise requested from SWS, the employer. (Ex. 89) Confirming they both knew the IBT employer was the source of the thing of value, Aloise informed Smith, "The owner of Southern Wine and Spirits made the call to Diagio who owns Crown Royal and there will be six tickets under your name. I should have the confirmation tomorrow. . . .." (Ex. 89) Smith responded, "You're the Best..... Thanks" (Ex. 90)[55] After Aloise forwarded to Korshak the names of the six who would use the tickets, the SWS President forwarded those names to Hubler who responded, "Got it... plan on the names being on the list ... at the door." (Ex. 92)[56] Korshak forwarded that email from the SWS President to Aloise who forwarded it to Smith at both his Teamster and personal email addresses. (Ex. 92) By his union email on February 9, 2013, Aloise thanked the SWS President for the tickets emphasizing they were for a high ranking IBT official stating, "I am remiss in not thanking you and your dad for the passes into the Super Bowl party. Hoffa's Ex Asst and his friends loved it." (Ex. 332)[57]

On February 4, 2013, Aloise sent an email to Local 792 principal officer Yoswa instructing him to keep Aloise posted on the members' vote on the SWS contract. (Ex. 93) On Saturday, February 9, Yoswa notified Aloise that the contract was ratified that day. (Ex. 94) Aloise then

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55 Smith wrote to Aloise that the following individuals would be using the tickets to the party: WC and Nancy Smith, Bill and Andrea Caldwell and Ben and Lynn Nelson. (Ex. 92)

56 In his IRB submission, Aloise argued that the fact admission was pursuant to a name being on a list and not a ticket made the gift being received not a thing of value. (Ex. 183 at 30) He relied on a case that held "the intangible value of a continuing ability to influence corrupt union practices" was not a thing of value. (Ex. 183 at 30-31; United States v. Cervone, supra, 907 F.2d at 347) For obvious reasons, it is inapplicable. Six admissions to a Broadway show from a list and six tickets to that same show are both ways to secure the thing of value, the admission to the show. The party the IBT official requested admission to and did attend was an actual event.

57 The President's father was the company Chairman. (Ex. 352) In an email to Aloise earlier on February 9, 2013, Chaplin had thanked Aloise ". . . for the help in Minnesota . . ." (Ex. 332) Aloise recognized the employer was the source of the tickets which was why he thanked the SWS official rather then Diageo.

forwarded Yoswa's message to Korshak, SWS' lawyer who had brought him into the negotiations to help SWS and acted as his intermediary with SWS to secure Smith's six admissions to the party. (Exs. 95, 89, 90)

The 2013 Playboy Super Bowl Party was described on the website NOLA.com|The Times-Picayune as an invitation-only "exclusive party" which featured celebrities. (Ex. 96) An entertainment news website, The Wrap, reported that a limited number of people, 300, were invited to this party. (Ex. 96) NOLA.com|The Times-Picayune posted pictures on its website of some of the celebrities attending. (Ex. 185) It was not a public event. The IBT employee was not on the list of attendees the sponsor initially created. Smith, who wanted to attend, could not obtain the tickets on his own. Aloise obtained the tickets only through the requested intercession of the highest level of SWS executives. Both Aloise and Smith knew the highest level of executive at SWS, a Teamster employer, was working to fulfill their request. (Ex. 89) Smith needed to go through Aloise because his union position negotiating with the liquor distributor gave him leverage to obtain the tickets.

Aloise argued the tickets were not of value because they were free to him. (Ex. 184 at 13; Ex. 183 at 30) In a secondary market, tickets for this party for which Aloise obtained the six admissions through the employer were offered for sale at $1,600 per person. (Ex. 187) For the six tickets Aloise obtained for Smith, the cost would have been $9,600. (Ex. 187)[58] Even if they were worth 10% of that, they still would have been worth $960. SWS's offer to pay Diageo for the tickets also showed it recognized they were valuable. (Ex. 87) All concerned indicated they

[58] That 2013 secondary market price was consistent with the prices for tickets to this party the year before and the year after. In 2012, tickets for the Playboy VIP Super Bowl party, for individuals who did not get passes, were offered for $1,508 each, or $9,048 for six tickets. (Ex. 188) In 2014, the Playboy Super Bowl party in New York was described in Forbes Magazine as one of the 10 most expensive Super Bowl parties. (Ex. 188) The cost of six VIP tickets to that party was $4,760. (Ex. 188)

believed the tickets were of value and it was not, as Aloise portrays it, some "free promotional event" which was open. (Ex. 183 at 30) Aloise admitted he knew entrance was limited to those on the list. (Ex. 183 at 30)

Aloise argued further that attendance at this party was an intangible benefit the statute did not cover. (Ex. 183 at 30-31) The party was real. Smith sent Aloise an email from it commenting, "Wish you and Deb were here. . . . the scenery divine. . . ." (Ex. 285) This was not an intangible indefinable benefit such as "the intangible value of a continuing ability to influence corrupt union practices" the Second Circuit found the statute did not cover. United States v. Cervone, supra, 907 F.2d at 347.

Aloise also argued in his IRB submission that because Diageo controlled the admission and not SWS that these were not things of value from an employer. (Ex. 183 at 31) He relied on United States v. Cody, supra, 722 F.2d at 1058-59 in which the Court found that a non-union employer at its own behest giving a thing of value to a Teamster local president was outside the statutory language of the act. (Ex. 183 at 31) Here, Diageo was acting at the behest of a Teamster employer attempting to fulfill Aloise's request to it and arranging to deliver the thing of value to the union representative's nominees. It was no different than if Aloise asked SWS for a fur coat and it had a non-union furrier deliver it to Aloise's designee. Moreover, Aloise knew that SWS obtained the tickets for him and for Smith. In thanking the SWS President, Aloise, using his union email address, emphasized to that IBT employer the admissions had been for a high ranking official of the union who represented its employees. (Ex. 332)

Subsequently, Aloise would solicit from both SWS and another Teamster employer a job for a relative who was difficult to employ. Again, as with the six exclusive party admissions, he would make the request of SWS while engaged in negotiations with the employer and again

involved the company's labor lawyer with whom he was negotiating in ensuring SWS complied with his request. SWS would again give Aloise the thing of value he solicited.

2. Mark Covey

Mark Covey was Aloise's cousin. (Ex. 98; Ex. 1 at 92) From approximately July 2004 through December 2012, he was a Local 853 member employed at Caterpillar, Inc. ("Caterpillar") which had a collective bargaining agreement with the Local. (Exs. 99, 100)[59] In December 2012, the Caterpillar facility closed and Covey lost his job. (Ex. 101)[60] Covey's ability to perform many employment tasks was very limited. (Exs. 98, 102, Ex. 6 at 46) Outside of the contract provisions and as a personal favor, Aloise solicited two Teamster employers to hire him. One was in the midst of negotiating several issues with Aloise as the union representative, including the organizing of previously unorganized employees. That company, SWS, hired Covey. (Ex. 103) As to the other, Aloise, indicating that what he requested from the employer was a thing of value to him, ordered a Local employee to alter the Local's prior manner of resolving issues that arose with the company to punish it for its failure to comply with his prohibited personal request for a thing of value. (Ex. 106) Aloise, since the company would not give him what he personally requested, stated he would stop the Local from continuing to accommodate the employer on various issues. (Ex. 106)

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[59] Covey joined Local 853 in 1977. (Ex. 99)

[60] At the time the Caterpillar facility closed, there were six Local members still employed there, including Covey. (Ex. 104) On December 18, 2012, Covey completed a Local 853 warehouse dispatch out of work form. (Ex. 105) According to Aloise, approximately 30-40 members had lost their jobs at Caterpillar. (Ex. 183 at 11)

a. Gillig Corporation

Gillig Corporation was a manufacturer of buses that employed Local 853 members. (Ex. 174; Ex. 5 at 37, 42-43) Aloise had organized Gillig. (Ex. 5 at 46) Gillig had taken over a warehouse in Northern California that Caterpillar previously used. (Ex. 107) Covey, who had worked for Caterpillar, lost his job in December 2012. (Exs. 99, 105)

On February 25, 2013, Aloise requested to Pam McKenna ("McKenna"), Gillig's Director of Human Resources, that the Local employer hire Covey, whom he informed her was his cousin. (Ex. 98) Aloise, in the email sent from his official union address, told the employer he would "consider it a personal favor if you can find something for him" and "[e]ven the janitor starting intro job would be wonderful." (Ex. 98)[61] McKenna replied on February 27, that the company had Covey in a group of applicants to be interviewed. (Ex. 108) She stated, "Hopefully he does well and can make it through the process. (By the way, I don't have any janitor positions open)." (Ex. 108) Aloise in his reply stated, "Thanks, always need someone to sweep, whatever, I appreciate all you are doing." (Ex. 108)

On March 20, McKenna informed Aloise the company did not have a janitor position open and that Covey had done poorly in the interview process. (Ex. 109) As a result, Gillig would not hire him. (Ex. 109) From his official union email address, Aloise emphasized in his reply to McKenna that his request had not been made lightly. (Ex. 106) He noted that, "Over the years I have asked for very few favors. Can you push this around a little and give him some consideration. Maybe get some dispensation from the top. . . ." (Ex. 109)

Five days later, after his cousin was still not hired, Aloise ordered Morgan, the Local Vice President who was the business representative for Gillig, to change the Local's approach to dealing

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61 No mention was made of Covey's union affiliation. (Ex. 98)

with this employer. (Ex. 106; Ex. 5 at 5) After recounting the failure of the company to hire his cousin as he had requested, Aloise instructed Morgan, "I am really pissed at Pam. She called my cousin in for an interview. He is not the brightest candle in the box, but hasn't missed a day of work in over 4 years at Caterpillar. They rejected him. With some of the bozos they have hired around that place, it really fucking pisses me off. Fuck them from now on, they get no favors, everything gets taken on, and she can go fuck herself." (Ex. 106) Aloise further emphasized that he had unrelated to his union duties made a personal request to the employer for the job for his cousin stating, "I seldom lower myself to ask for a favor, but that is how I asked her, and she tells me to fuck off." (Ex. 106)[62]

Morgan offered to assist Aloise in further pressing the company on Aloise's request, even offering to grovel. (Ex. 106) Morgan stressed, indicating he knew the request was to the company, "I feel bad for as much as you have done and do for Gillig that you now feel this way." (Ex. 106)[63] Aloise replied with his position, "I sent her an email asking her to reconsider or if she needed to, to run it up the flag pole, but never heard back. This is an ongoing problem with her, and pisses me off. Fuck her, I have a long memory." (Ex. 106)

International Vice President Aloise's request to Gillig, a Local 853 employer, for a job for his relative alone violated 29 U.S.C. §186(b) (1). Aloise's command to the Local employee to be

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62 Gillig was a Local 853 employer and its employees were Local 853 members. (Ex. 340) Aloise claimed he was asking as a union official in the normal course of business for Gillig to hire a union member. (Ex. 183 at 11; Ex. 184 at 3) Aloise contended that he routinely asked employers to hire members. (Ex. 184 at 3) Obviously, his lowering himself here "to ask for a favor" that he recounted was not the claimed routine effort in his job to obtain work for an unemployed member. (Ex. 106) There would be nothing lowering about that. Rather, it was his understanding the solicitation was for something special outside his union duties that caused Aloise to understand he was lowering himself. The contemporaneous documents do not support Aloise's claim he was acting for union and not personal reasons.

63 Morgan testified that, "I felt bad for everything that he's gone out of his way to facilitate more work for that company and help them grow, that they would consider hiring his cousin when they're in need of hiring employees." (Ex. 5 at 42) Morgan recognized Aloise's request was not the routine request Aloise claimed he made to employers for jobs for out of work members, but a special solicitation for his relative.

less cooperative in dealing with the employer after it did not give Aloise the thing of value he requested evidenced how valuable the requested job was to him. Aloise, in instructing the business agent he supervised to deal differently with the employer, demonstrated he planned to use his union power to punish the company for failing to give him the thing of value he requested as a personal favor. The business representative understood that Aloise expected his request to the employer to hire Covey to be honored because of all he did and was doing for that employer through his union position. (Ex. 106)

b. Southern Wine and Spirits

In March 2013, SWS was in tense negotiations with Aloise over its plans to open a southern supply center in Tracy, California. (Ex. 110) The company had not discussed the matter with Aloise as early as he believed they should have. (Ex. 110) SWS for business reasons needed Aloise to reach an agreement quickly. (Ex. 110) Aloise's decision as to what position the Local would take on the employer's plans would have a financial impact on the employer. (Ex. 110) At this time, Aloise was also negotiating a statewide contract with SWS for a class of sales employees that had never been organized. (Ex. 1 at 95-96) There were additional open issues between the IBT and the company. (Ex. 112) These negotiations were ongoing in April when, after his failure to get what he asked for from Gillig, Aloise instructed Strelo, a Local employee he supervised, to request the company to hire his cousin Covey. (Exs. 110, 111, 276)

On March 22, 2013, Aloise forwarded to Strelo an email from Covey asking about job openings. (Ex. 114)[64] In two emails from Covey to Aloise, one on March 25 and the other on

[64] Strelo testified that Covey "has a learning disability so he has limited capacity. There was a challenge in trying to come up with something a disabled adult, that he could do, he could perform." (Ex. 6 at 46) Strelo testified that when he learned that a Local member employed as a janitor at SWS was going to retire, he thought that work would be something that Covey could do. (Ex. 6 at 50)

April 8, Covey told Aloise that he was waiting for "your guy" to call him back about a job at SWS, apparently referring to Strelo. (Exs. 117, 118) According to Covey's April 8 email, Aloise's "guy" had told Covey he would call Covey back after "he set it up". (Ex. 118) Covey had not received the call. (Ex. 118) Aloise forwarded Covey's April 8 email to Strelo, the Local 853 President who, along with Aloise, was a business agent for SWS. (Exs. 111, 174) Strelo represented the hourly employees. (Ex. 6 at 13) In his message accompanying the forwarded email from Covey, Aloise asked Strelo if he had spoken to anyone at SWS about Covey, indicating Aloise had a prior communication with Strelo about finding work for his cousin from the employer. (Ex. 111) Strelo replied he had and that he also had spoken to an additional employer about Covey, Young's Market Co. (Ex. 111)[65] Later that day, Strelo emailed Aloise that he had sent Covey's name to Thomas Passantino ("Passantino"), the Human Resources Director at SWS for Northern California. (Exs. 116, 131) On April 8, Aloise sent another email on his union account to Strelo telling him to contact Passantino stating, "Can you tell him to hire the little SOB, as a janitor in the whse, whatever." (Ex. 116)[66] Through April and May, negotiations over union-employer issues were ongoing between Aloise and the company. For example, on April 10, 2013, Aloise met with a SWS executive and an outside lawyer for SWS for negotiations. (Ex. 120; Ex. 1 at 88, 91, 95-96)

On May 6, Covey again contacted Aloise informing him he had not heard from SWS. (Ex. 121) Aloise forwarded this email to Strelo with a string of question marks. (Ex. 121) Strelo replied to Aloise, "I'll call Steeno. I thought this was done." (Ex. 121) Tom Steeno was the SWS Vice President of Operations with whom Aloise had been negotiating on April 10. (Ex. 120; Ex. 6 at

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65 In his email, Strelo referred to Young's Market Co as YMCO. (Ex. 6 at 59) Young's was another liquor distribution company whose employees Local 853 represented and for which Aloise was also a business agent. (Ex. 174) Young's and SWS were covered by the same contract with Local 853. (Ex. 354)

66 Echoing Aloise's comments to Gillig, Strelo responded, "I said even pushing a broom." (Exs. 98, 116)

41) Aloise ordered Strelo in addition to Steeno to again contact Passantino about the job for Covey. (Ex. 121) According to a contemporaneous email in September 2013, recapping events leading to the hiring of Covey, that company executive Steeno wrote, Aloise put tremendous pressure on him and Strelo to get Covey hired. (Ex. 102)

On May 13, Covey emailed Aloise. (Ex. 123) Covey explained he had been to SWS three times and still had not been able to apply. (Ex. 123) Passantino told Covey he would need to wait for the job to be posted before he could apply. (Ex. 123)[67] Passantino also told Covey he would call him when the job was posted. (Ex. 123) Using his official union account, Aloise forwarded this to Strelo at his union address with the message, "What the fuck?" (Ex. 123)

In a subsequent email to Aloise from his official union account, Strelo reported that under SWS' corporate policy the company could not hire to fill a job until the job was open. (Ex. 123) An SWS employee whose retiring would have created an opening had pushed back his date. (Ex. 123) Under SWS policy, the company could not interview Covey for the position until it was open. (Ex. 123) Despite this, to assist Aloise in forcing the union employer to give his cousin a job, Strelo "bitched" to Steeno to try to have him violate the corporate policy. (Ex. 123) During his sworn examination, Strelo acknowledged that he, ". . . yelled at him [Steeno] to try to hurry the process up." (Ex. 6 at 68-69)

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67 The contract with SWS provided that the company would first post job openings internally for current employees. (Ex. 6 at 73; Ex. 115 at 7-8) Pursuant to Article 2 of the collective bargaining agreement between SWS and several IBT Locals, including Local 853, the company was to notify the appropriate Local when new or additional employees were needed. (Ex. 115 at 2) According to Strelo, there was an online job application. (Ex. 6 at 53) The Local would have 48 hours in which to provide the company with candidates for the open position. (Ex. 115 at 2) The employer in its discretion could hire these or other applicants. (Ex. 115 at 2) The company was under no contractual obligation to hire Teamster candidates. (Ex. 115 at 2) Covey, who was forced on the company, was hired outside of the contract provisions. Indeed, as discussed above, Aloise's enlistment of SWS outside labor counsel, with whom he was negotiating issues between the company and the union, to ensure the company hired his cousin was further proof this was outside of any normal process. United States v. DeBrouse, 652 F.2d 383, 387 (4th Cir. 1981)

Besides enlisting Strelo, a salaried Local 853 employee and officer, in his campaign to secure a job he requested for his cousin from a company whose employees Aloise and Strelo represented, as with his previous ticket request, Aloise also used an outside lawyer, who represented SWS and with whom Aloise was actively negotiating issues between the union and the company, to insure the company granted his demand for it to hire Covey. (Exs. 102, 110) On May 14, 2013, Richard Kracoff ("Kracoff"), a lawyer for SWS, informed Aloise who the company attendees would be at a scheduled meeting between Local 853 and two employers, SWS and YMC, at the Oakland Hilton. (Ex. 124)[68] The lawyer said he and Steeno would be at the meeting. (Ex. 124) Aloise threatened, "If Steeno doesn't hire mark covey, I might now show up." (Ex. 124)[69] Aloise did not need to explain to the SWS lawyer who Covey was and what hiring he referred to.[70] The outside law firm had no normal role in the hiring for this position. Aloise's use of the company lawyer negotiator was solely because of his involvement in negotiations important to the company rather than any role he had in the hiring process. Aloise's response prompted the company's labor negotiator into immediate action. He emailed Aloise back that day, "I talked to Tom just now and he said that he is working with Bob on it." (Ex. 124) Tom was Steeno, the SWS executive, and Bob was Strelo, the Local 853 officer, who assisted Aloise in getting the employer to comply with his request to hire his relative. (Ex. 1 at 97-98; Ex. 126) Aloise's response from his union email address to the management lawyer with whom he was negotiating indicated his anger at the company's failure to fulfill his request. (Ex. 126) Aloise punctured the lawyer's attempt at

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68 Richard Kracoff is a member of the management law firm of Korshak, Kracoff, Kong and Sugano, LLP. (Ex 125) As described above, his partner, Stuart Korshak, was Aloise's conduit to the company for his request for tickets during the Minnesota negotiations. (Exs. 82, 87, 92)

69 Aloise testified that he believed the meeting was about contract negotiations for direct salesmen or a card check for the direct salesmen. (Ex. 1 at 97) He testified that he ". . . probably wouldn't necessarily attend the card check, but I might." (Ex. 1 at 98) The emails refer to the card check. (Ex. 1 at 97; Exs. 179-181)

70 Apparently Aloise had made Kracoff aware of his demand previously because there was no need to provide any further explanation about who Covey was.

placation by stressing, "And not a fucking thing is getting done" in response to his demand. (Ex. 126) The company's lawyer assured Aloise that SWS was working to meet his demand it hire his cousin. (Ex. 126) The lawyer explained, "It is! They have already posted a day swamper position. There is a night swamper who has seniority who is going to bid for it. That will open up a night swamper position, which will be posted and should go to your guy." (Ex. 126) Covey was not hired that day. The next day, May 15, Aloise attended the meeting with Steeno about IBT and SWS business as he threatened he would if Covey were not hired. (Ex. 127)[71]

On May 17, Strelo, copying Aloise, notified Covey the job at SWS was open. (Ex. 128) He told Covey he should expect a call from the company that day to instruct him to come in and complete the application. (Ex. 128)

The next day, Saturday, May 18, Steeno, the SWS executive who met with Aloise on May 15, forwarded to Aloise an email chain of internal SWS communications with the message "FYI". (Ex. 129) The subject of the email chain was "FWD: Mark Covey". (Ex. 129) Apparently, Steeno needed to demonstrate to Aloise after their meeting that the company had been working to give a job to his relative pursuant to Aloise's demand. The first item in the forwarded chain was a May 10 email in which Passantino described to other SWS employees that he had met with Covey, ". . . the person who has come to us from Rome Aloise through Tom Steeno. . . ." (Ex. 129) In that email, Passantino stated he had explained the application process to Covey and that nothing could be done then because the job was not yet open. (Ex. 129) He told Covey he would call him as to when to come in to complete the application. (Ex. 129) Passantino noted to other SWS personnel, "Let's make sure to keep on top of this: if Mr. Covey is somehow overlooked I'm certain that Rome will not be amused. (Worse: Mr. Steeno will not be amused.)" (Ex. 129) A May 17 email

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[71] A representative of YMCO was also at the meeting. (Exs. 124, 127)

in the chain reflected Passantino instructing his assistant to call Covey regarding the application. (Ex. 129) Passantino sent the internal emails to Steeno on May 17. (Ex. 129) On Saturday, May 18, Steeno forwarded these internal employer emails to Aloise. (Ex. 129)

On Monday, May 20, Passantino sent an email to Strelo, which was copied to Aloise, stating that he had just invited Covey to come to SWS to apply for the job. (Ex. 130)[72] In response to this email, Strelo wrote to Aloise, "I sure hope he is less trouble then getting him hired!" (Ex. 131)[73]

Negotiations on union business continued between Aloise and SWS. On May 29, 2013, Aloise met with Steeno, Kracoff and Korshak, Kracoff's partner, at the Oakland Airport Hilton regarding SWS and YMCO. (Ex. 132) Korshak, while negotiating the Minnesota contract with Aloise, had served as his go-between on the union officer's request to SWS to secure six party admissions for "one of Hoffa's key guys", Smith. (Exs. 78, 87) On June 10, 2013, SWS hired Covey. (Ex. 103)

Subsequently, during the probationary period in late September 2013, the company determined Covey was not capable of doing the job. (Ex. 102) In a September 24, 2013 email to Steeno, Passantino and other SWS personnel, the warehouse manager reported, "Apparently Mark Covey cannot handle the responsibilities of this night swamper position. He is extremely slow – cannot get tasks completed in a timely manner and at times not at all. Do we want to start the

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[72] When asked why SWS called Covey and invited him to apply for the job, Strelo testified, "Well, because I kept asking them and calling them and talking to them saying when is the position going to be open. It's probably in response to my bugging them. And again, they were happy to have an applicant who was interested. I can't say that enough." (Ex. 6 at 72) The company's joy does not appear in its emails and the hiring from the documents appears to address Aloise's demands it hire his cousin.

[73] Strelo testified that he made that statement because, ". . . we were all frustrated at the time it took to get this open position, so I just think it was in response to that." (Ex. 6 at 74-75)

disciplinary process or just get the most we can out of him?" (Ex. 102)[74] Steeno sought advice from SWS outside labor lawyer Kracoff and his partner, Korshak, as to what should be done. (Ex. 102)[75] Aloise had used Kracoff as an intermediary with SWS on his demand for SWS to hire Covey while negotiating union-employer issues with Kracoff. (Ex. 124) Korshak also represented the company in those negotiations and apparently was surreptitiously supplying Aloise with communications between himself and his clients.[76] Steeno solicited the lawyers' advice about what employment action the company should take with Covey who could not do the job. (Ex. 102) As Covey was a probationary employee, the company could have terminated him. (Ex. 102; Ex. 115 at 7)[77] Because of Aloise's demand on the company to hire Covey, however, Steeno wanted to know from the company's labor lawyers then in negotiations with Aloise as a union representative, whether SWS, instead of starting the termination process as it normally would do with a non-performing probationary employee, should act outside the routine process and accept

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[74] Strelo testified that a SWS warehouse supervisor told him that Covey was "showing up late" to work. (Ex. 6 at 75-76)

[75] The law firm's website described Korshak as: "labor counsel to multi-employer groups and individual companies in various industries throughout the United States, including hotel and casino owners and management companies; wine and spirits distributors; sports, convention service, airport and food service companies; aviation companies, and others. He specializes in proactive labor management relations where he is generally successful in having his clients and their unions work cooperatively together to settle their contracts and to resolve their respective issues without litigation or confrontation". (Ex. 125)

[76] During SWS and union negotiations, Korshak forwarded to Aloise communications between the lawyers and company personnel in which they would discuss the company's negotiation strategy, points of contract interpretation and Korshak would stress the importance of Aloise's support for the company. (Exs. 81, 87, 133, 177, 195, 197,199, 331, 333) The nature of these SWS communications with its lawyer suggest that the client did not intend these be shared with Aloise, their adversary. On some of those he forwarded, Korshak would instruct Aloise to delete them after reading, indicating he was alerting Aloise that it was improper for Korshak to be giving these to his client's adversary. (Ex. 133) Aloise testified he did not request Korshak to do this, did not pay him for his client information or do him any favors. (Ex. 1 at 88-89) Aloise did read them. (Ex. 1 at 88-90) He was aware of an attorney's obligation not to share client communications without its permission. (Ex. 1 at 88-90)

[77] The Local's collective bargaining agreement provided that the probationary period for warehouse employees was, "[t]he first 480 hours of compensated employment". (Ex. 115 at 7) According to the contract, Covey's position, which Passantino described as a utility position, was a warehouse position. (Ex. 115 at 44; Ex. 102) The contract provided that, "[d]uring the probationary period, probationary employees shall be subject to discharge without recourse." (Ex. 115 at 7) Outside of Aloise's demand that the employer who represented his members keep his cousin, the non-performing Covey would have been terminated in the normal course of SWS business. (Ex. 103)

whatever limited work they could out of Covey given that Covey was, ". . . Rome's relative that he gave me so much crap about hiring. Lots of pressure on both Strelo and me to get it done. . .." (Exs. 102, 194)

Korshak, before advising Steeno, forwarded Steeno's email seeking the lawyers' advice, including the company's unqualified assessment that Covey could not do the job, to Aloise with whom he was negotiating. (Exs. 102, 194) The SWS lawyer then solicited the union officer's request, "*Rome. What do you want me to do*?" (italics in original) (Ex. 102) The lawyer quoted the warehouse manager's description of Covey's work described above and told Aloise that it, "Sounds like Tom is being asked what to do with him in the probationary period . . ." (Ex. 102) Korshak asked Aloise, "Do we just tell them to keep him and let him do what he can do?" (Ex. 102) Aloise then responded with his third known request for a thing of value from SWS in nine months. Aloise wrote, ". . . I would prefer that they keep him. Don't they have a janitorial job or something of the sort?" (Ex. 102) He wrote he would have Strelo speak to Covey. (Ex. 102) The lawyer for the company assured Aloise that the lawyer would pass Aloise's instruction to Steeno and the company would keep Covey as Aloise requested. (Ex. 102) In a subsequent email, Korshak told Aloise, "Tom will make sure the guy keeps working for SWS and will tell Bob to tell the guy he has to perform (the best he can) and not to play the card so many of Harvey's relatives play that they get their job regardless of whether or not they actually work. It should be fine." (Ex. 347)[78] Aloise replied, "Not sure why this stupid kid can't do what he is supposed to do, but I will take care of it." (Ex. 347)

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[78] The SWS Chairman was Harvey Chaplin, the father of SWS President Wayne Chaplin. (Ex. 352) Korshak appeared to be equating Aloise's power to get his cousin hired with that of the company chairman's ability to get his relatives hired at the company, i.e. to play the card that got them hired, their connection. (Exs. 332, 352, 353) Since Covey could not perform the job responsibilities for which he was paid, Aloise was asking the company to retain an employee who was performing less than the job required.

On September 24, the same day Korshak forwarded to Aloise Steeno's email, Strelo called the warehouse manager about Covey. (Exs. 102, 134) Strelo also reported to Aloise that he would speak with Covey. (Ex. 134) On September 25, Aloise sent Covey emails summarizing the value of the job to Covey that Aloise had secured for him from the company and recognizing his lack of performance. (Exs. 135, 193) Aloise wrote, "You need to work harder and get the jobs done faster and more completely. There are no other jobs. Step up and get it done. I don't need ypu [sic] to embarrass me. . . ." (Ex. 193) In an email shortly thereafter to Covey, Aloise further explained how valuable the job was stating, "I am not intending to be mean, but good jobs are hard to come by. This has good pension and healthcare that you don't have to pay for, there aren't other jobs like this and at your age it makes it doubly tough. Work your ass off." (Ex. 135)

On September 26, Strelo informed Aloise that he had spoken with Steeno that morning about Covey. (Ex. 136) Strelo wrote, "Next week I'm going down to read him the riot act as part of my deal with the Company – but Steeno and I came to an agreement that as long as Mark isn't lazy (both of us think he is just slow) then Steeno can live with it! Whew! The things we do for love!" (Ex. 136) Aloise responded, "VERY MUCH appreciated!" (Ex. 136) Covey was still employed as of August 18, 2015. (Ex. 137)

When he requested the company through its labor lawyer to keep the inadequately performing Covey as an employee, Aloise continued to interact with SWS representatives and those lawyers in negotiations regarding union matters. For example, in October 2013, Aloise's calendar reflected four entries regarding SWS, including a call with Steeno and SWS's outside attorney Kracoff on October 28, 2013. (Ex. 80)

3. Other Acts Evidencing Aloise's Pattern of Making Requests for Things of Value from IBT Employers and Vendors

a. Rico Valledor

Covey was not an isolated instance of Aloise seeking jobs for difficult-to-place relatives from Teamster employers. Similarly, in 2013, Aloise sought from two major IBT employers a job for his stepson, Rico Valledor ("Valledor") who was not an IBT member at the time. (Ex. 139) Valledor was charged with crimes during Aloise's solicitations on his behalf and, apparently, that ended Aloise's efforts before Valledor received a job. (Ex. 138)[79] Aloise's requests to these IBT employers, as did his request to SWS for the tickets, showed his conduct regarding Covey was part of a broader pattern of making requests to Teamster employers for personal favors.

b. Costco

In 2013, Aloise requested Costco, a Teamster employer, to find a job for his stepson, who was not a Teamster. (Exs. 139-140) The IBT represented almost 15,000 Costco employees at 55 locations in several states. (Ex. 141) The union reached a tentative agreement with Costco on January 10, 2013. (Ex. 141) Aloise was the lead negotiator for the IBT. (Ex. 141) The members approved the contract on February 19, 2013. (Ex. 142) The contract resulted from four months of negotiations. (Ex. 143 at 15) According to the union, the Costco employees would be the highest paid employees in the retail industry. (Ex. 142) Indisputably within the union, a job at Costco was viewed as a thing of value. As the IBT declared to its members, "[t]he new Teamster contract at Costco puts the company miles ahead of other retailers in terms of wages, job protection and other benefits." (Ex. 143 at 16)

[79] The discussion is limited to Aloise's conduct in 2013 because the IRB only obtained Aloise's 2013 emails.

Before the Costco contract was ratified, in early February 2013, Aloise focused on his stepson's search for a job. (Ex. 144) On March 8, 2013, Aloise through his official union email requested Michael Mosteller ("Mosteller"), one of the Costco signatories on the recent contract that Aloise also signed as the IBT Chairperson, to help get Valledor a job in a San Diego Costco location ". . . on any basis, PT, LPT . . .." (Exs. 140, 141) He assured Mosteller "anything you can do would be appreciated." (Ex. 140) Aloise had previously sought and received this Costco executive's assistance to earlier secure a job at Costco for Valledor which Valledor took from the IBT employer. (Ex. 140)[80]

Approximately two months later, on June 4, 2013, Aloise again contacted Mosteller, alerting him that Valledor was applying. (Ex. 146) In that message, Aloise asked if there was "anything . . . happening on the hiring front?" (Ex. 146) Mosteller replied the next day, explaining to Aloise that he had spoken to the manager of one store about when Valledor might get an interview and that he was going to contact the manager of a second store to learn if she were in a better position to begin the process. (Ex. 146) Both on June 25 and on July 9, Aloise contacted Mosteller again regarding employment for Valledor with Costco. (Exs. 147-148) On July 9, Mosteller explained to Aloise that he expanded his efforts to find employment for Valledor to other warehouses. (Ex. 149) Valledor had criminal charges for assault and battery, robbery and displaying a deadly weapon filed against him in California state court on June 12, 2013. (Ex. 138) By, at least, July 22, 2013, Aloise knew of the criminal case against Valledor. (Ex. 357) This apparently ended Aloise's requesting Costco for employment for him.

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[80] Valledor had issues when employed then. Valledor quit that job rather than undertake a medical examination. (Ex. 140)

c. UPS

Aloise also requested employment for Valledor from United Parcel Service ("UPS"), the largest IBT employer. (Exs. 150-151) In 2013, the IBT and UPS were negotiating the National Master United Parcel Service Agreement that would run from August 1, 2013 to July 31, 2018. (Ex. 152) Chris Langan ("Langan") was a member of the negotiating committee for UPS. (Ex. 152) IBT members voted on the contract in mid-June 2013. (Ex. 153) Aloise was also involved in the national UPS negotiations. (Ex. 1 at 12) As of June 25, 2013, regional supplements still remained open. (Ex. 154) Aloise was an International Vice President and head of Joint Council 7, both of those entities had members employed at UPS. (Exs. 151, 155) Langan also was an employer Trustee on the Western Conference Pension Trust on which Aloise was a union Trustee. (Ex. 156; Ex. 1 at 5, 7)

On June 4, 2013, before the UPS contract was voted on, Aloise through his official union email asked Langan, the UPS executive, if he had "any suggestions" for a "good kid" to get hired by UPS in San Diego. (Ex. 150) In response to a request from Langan, Aloise sent Valledor's name and number to Langan, indicating Valledor would take any job. (Ex. 150) Langan confirmed to Aloise that he had gotten Valledor's name into "the right hands." (Ex. 157) Langan indicated that there was orientation the following week which his contacts in the company he had approached about Valledor were looking to get Valledor into. (Exs. 151, 157) Aloise and Langan were to meet the following week, probably at the Western Conference Pension Trust June 2013 meeting. (Exs. 157, 360) After the criminal charge on June 12, 2013 against Valledor, Aloise apparently did not pursue the matter of employment for his stepson further with UPS. As with SWS, Aloise was seeking the UPS executive's help to get a thing of value while there were open issues between the employer and the union.

d. Aloise's Requests for Favors from Vendors to Funds

Also showing his demands on SWS and Gillig for a job for Covey were not routine requests for work for an out-of-work member as he now claims, was evidence that Aloise in dealing with vendors operated in expectation that for union action beneficial to them he expected a personal favor in return, as he had with SWS. In 2012, Aloise was the Chairman and a Trustee of the Teamsters Benefit Trust, an employee welfare plan. (Ex. 1 at 4-5; Ex. 19) Lanini was a Local 853 member employed at GrandFund, who acted as a facilitator for companies that sought to do business with the TBT. (Ex. 163)[81] On February 2, 2012, she sought Aloise's assistance to cause the TBT to adopt the wellness counseling services of Tera Clizbe's ("Clizbe") employer, HMC Companies ("HMC") which had merged with Managed Health Network. (Exs. 163, 167)[82] The next day, after the TBT Trustees met and approved the proposal, Aloise informed the two vendors, Lanini and Clizbe, that, "After a significant battle – Tara is getting the business. You both owe me. . .." (Ex. 163)[83] In his announcement to the vendors, Aloise evidenced his state of mind that he expected benefits in return for union actions. That was explicitly prohibited under the IBT's

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[81] Among her other duties at GrandFund, Lanini hosted dinners for TBT Trustees at Conferences. (Exs. 365, 366)

[82] On February 1, 2012, Clizbe sent Lanini an email with the subject "TBT info" regarding pricing for the wellness program. (Ex. 163) Lanini forwarded this email to Aloise on February 2, 2012. (Ex. 163)

[83] Aloise testified he knew Clizbe since she was two. (Ex. 1 at 75) Given that, why she would need Lanini's help to intercede with the TBT which Aloise chaired in marketing her client's product for consideration by the Fund is not apparent. Apparently, all Lanini did was to be the point of access and pass along information Clizbe provided. (Ex. 1 at 22-23, 74-76; Ex. 3 at 24-26)

Code of Conduct. (Ex. 192 at 10)[84] Neither Lanini nor Clizbe contradicted Aloise's statement of obligation to him for his action with the Fund on their behalf.[85]

In another example of how Aloise dealt in terms of favors for actions, in September 2013, a new administrator for the Teamster Alaska Teamster Pension and Health and Welfare Funds ("Alaska Funds") contacted John Slatery ("Slatery"), the IBT Benefits Director, for a contact at HMC. (Ex. 168) The administrator heard that the IBT was going to endorse this company for disease management services. (Ex. 168) Before supplying the contact, Slatery checked with Aloise on where he stood on HMC. (Ex. 168) In his response, Aloise's concern was not the quality of services provided or its cost. Aloise replied he had no objection to Slatery providing the contact information for HMC "[a]s long as my person gets the credit". (Ex. 168) Aloise stated he used credit to mean some benefit at the company that would go to the person bringing in Teamster

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[84] When asked during his IRB sworn examination about his email explaining he was owed favors, Aloise testified, "I was kidding." (Ex. 1 at 74-75) The context and his pattern of behavior showed otherwise. It was another of Aloise's I did not mean what I said when I said it claims.

[85] According to IRS Forms 5500 the TBT filed, the TBT paid Managed Health Network $437,881 in 2011, $505,546 in 2012 and $607,092 in 2013. (Exs. 173, 19, 245) Managed Health Network was part of HMC Companies. (Ex. 167) The broker, Mental Health Advisory Group, was paid commissions of $21,894 in 2011, $23,088 in 2012 and $36,710 in 2013. (Exs. 173, 19, 245) Lanini in her emails in this matter described herself as connected to the GrandFund. (Ex. 163) During her sworn examination, Lanini described The Mental Health Advisory Group as part of the GrandFund. (Ex. 3 at 6-8) Bertucio, the GrandFund's owner, testified it was not and that it was Lanini's company. (Ex. 2 at 7) Aloise testified that he did not recognize Mental Health Advisory Group. (Ex. 1 at 22)

Mental Health Advisory Group is a Delaware limited liability company. (Ex. 164) As such, ownership is not a matter of public record. (Ex 164) The company has no listed address in Delaware. (Ex. 164) Its agent for service is a Delaware company that serves as a corporate agent for many such companies. (Ex. 164) Mental Health Advisory Group is also registered to do business in California as a foreign company. (Ex. 165) There, Lanini was listed as its agent and her home was listed as the address for the entity and for service on her. (Exs. 165, 38) The Certificate of Formation for the Mental Health Advisory Group filed with the Delaware Secretary of State on July 15, 2008 was signed by Lake Grey as an "authorized person". (Ex. 164) The California law firm that represented both Lanini and Bertucio at their IRB sworn examinations employed a paralegal named Lake Grey. (Ex. 166)

business. (Ex. 1 at 77-79) He indicated to Slatery his person at HMC was Tera Clizbe. (Ex. 168)[86] Slatery passed on Clizbe's contact information to the new Alaska Funds' administrator. (Ex. 169)

A similar example of Aloise's state of mind occurred earlier in 2013. IBT Vice President John Coli ("Coli") had requested that Ken Hall ("Hall"), the International General Secretary Treasurer, send a letter to Locals from the IBT endorsing HMC's wellness services. (Ex. 172) Slatery wrote to Hall inquiring about the letter. (Ex. 172) He forwarded this to Aloise who was co-chair of the Benefits committee of the IBT VEBA Fund. (Ex. 172; Ex. 1 at 4-5, 79-81) Aloise viewed the proposed endorsement letter as Coli's attempt to steer credit for future HMC business with IBT funds to Coli's "guy at HMC." (Ex. 1 at 79-81) [87] Aloise, who had his own HMC person, was opposed to this and he blocked the endorsement letter from being sent at that time. (Ex. 1 at 77-81; Ex. 172) Providing favors to and receiving favors from outsiders was central to Aloise's practice as a union officer. As the above pattern of conduct in 2013 showed, Aloise's requests to SWS and Gillig were not routine actions for an unemployed member as he contends, they were personal requests to the employer for a thing of value, a job for a difficult to employ relative and retention of a job for a relative who could not perform his duties, made by an officer in the union representing their employees. Indeed, Aloise's use of SWS' outside labor lawyers with whom he was engaged in active negotiations as conduits for the repeated requests for things of value showed these were not routine requests. United States v. DeBrouse, supra, 652 F.2d at 387.

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[86] Aloise misspelt her name as Tara Chrisby. (Ex. 168) Slatery provided it correctly when he passed it on. (Ex. 169)

[87] HMC co-sponsored a party with Chicago Teamsters in Las Vegas in May 2010 at the Unity Conference. (Exs. 167, 170; Ex. 171 at 145-151) For this party, the cost was $600 per attendee. (Ex. 170) HMC paid for half of the total cost. (Ex. 171 at 145-151) Those in attendance were from Chicago area Locals and Joint Council 25, which Coli headed, and one HMC representative, Mark Mauro. (Exs. 170, 167; Ex. 171 at 145-151)

4. Aloise's Explanations of His Requests for Things of Value from Employers of Teamster Members

a. Gillig

Aloise argued his email to Morgan was not intended to cause a change in the Local's positions in dealing with the employer as he instructed. (Ex. 184 at 4; Ex. 183 at 12) Morgan testified that he took no action in dealing with Gillig based on Aloise's instructions to change positions. (Ex. 5 at 48) Morgan testified, ". . . sometimes in this business he [Aloise] shoots from the hip a little bit and says things. I've learned over the years to just ignore him. I don't take everything he says and jump off a cliff with it. I'm my own person." (Ex. 5 at 48) Morgan testified that he ignored Aloise's request and his dealings with Gillig did not change after Aloise's email. (Ex. 5 at 48) If that happened, it was the result of Morgan's good judgment and not any action of Aloise. Under the statute, the offense occurred when Aloise, an employee representative, requested the thing of value from Gillig who employed members he represented, 29 U.S.C. §186(b). United States v. DeBrouse, supra, 652 F.2d at 390 (concerning a Teamster Local President, "The request . . . was in itself a violation of the statute."). In violating the statute, Aloise committed an enjoined act of racketeering, 18 U.S.C. §1961(1). (Ex. 186; Ex. 158 at 6)

Aloise, when offered the chance at the conclusion of his sworn examination, declined and did not provide any exculpatory testimony. (Ex. 1 at 153) Subsequently, after additional time to pull a story together, he submitted a declaration claiming he was asking Gillig employee McKenna on a personal level because he had previously helped get her jobs. (Ex. 184 at 4) He contended it was a personal favor from a friend he was requesting and not from a company representative. (Ex. 184 at 4) Aloise claimed when he sent the email from his union address he had no thought that his position as head of Local 853 would have any influence on how his request was received. (Ex. 184 at 4) That claim was not supported by the documents.

Moreover, his state of mind was not relevant. Under the statute only his union position and his awareness of what he was doing were relevant. United States v. Phillips, 19 F.3d 1565, 1581-82 (11th Cir. 1994) cert. denied sub nom, USX Corp. v. United States, 14 U.S. 1003 (1995). He used his union email address for his communication over his cousin's possible employment with the company official at her business email address. (Exs. 98, 108, 109) The communication indicated this was not a request from one friend to another. Aloise, an employee representative, was asking for a job for his cousin at the Local 853 employer which would pay the salary. Subsequently, he asked McKenna to seek dispensation from her corporate supervisors. (Ex. 109) Aloise also requested that other higher executives be consulted on his request, firmly indicating he was making a request to an employer. (Ex. 109) He also instructed Morgan to alter union positions with the company ("they get no favors"). (Ex. 106)

The thing of value Aloise requested, the job, was in the possession of the employer who employed Local 853 members Aloise represented. The employer paid the salary and benefits for the job, not McKenna. Previously, the Second Circuit has rejected Aloise's specious distinction between the employer and the employer's employee when another IBT Local President presented it on the appeal of his conviction under 29 U.S.C. §186(b). United States v. Cody, supra, 722 F.2d at 1060. There, the Local President received chauffeur services from an employer through his employees. The Teamster officer argued these union members were volunteering to serve their Local president. There, as here, the inconvenient fact that the employer paid the salaries for the chauffeurs punctured the argument. Moreover, Aloise's plea that McKenna have her superiors review his request contradicted his claim it was a request to a friend. (Ex. 109) This was a personal request from the head of its employees' union to the employer for a thing of value. (Ex. 106) Indeed, as his fellow Local officer Morgan made explicit to Aloise, he understood Aloise was

angry his request was spurned despite all he had done for the company through his union office. (Ex. 106) Whether Aloise who stated about himself he did not make threats "just promises", took action against Gillig was not an element of the offense. (Ex. 238) What that email to Morgan captured was that at the time it was written, Aloise connected the refusal of his personal request to a union employer for a thing of value to his ability to use union power to punish that union employer for spurning his personal request.

The evidence demonstrated this was not a personal request to McKenna but one to her as an employer representative. The company would have been the employer of Covey and would have paid his salary, not her. The offense was completed when the employee representative solicited a thing of value, i.e. the job, from the employer who employed his members. 29 U.S.C. § 186(b); United States v. DeBrouse, supra, 652 F.2d at 387. The Gillig offense was further corroborated by both Aloise's conduct in soliciting SWS for a job for Covey where he was not claiming a personal relationship with the employer representative and his other requests to IBT employers and vendors for personal favors discussed above in this report. Other than the happenstance that Covey was a Local 853 member, there was no evidence supporting Aloise's claim this was a normal request from him as the head of the Local to an employer to recommend it hire a member who was unemployed. If this was a standard business request, it would not have caused Aloise to describe what he had done as "lower[ing]" himself to seek a favor from the employer. (Ex. 106)

b. SWS

Aloise contended that in forcing SWS to hire Covey, he was acting as the champion of a Local 853 member, as he would have in his union position for any member trying to find him a

job. (Ex. 183 at 11; Ex. 184 at 3-4) Other than Covey being a Local member, the facts did not support the rest of Aloise's tale.

In the emails, both within SWS and between Aloise and SWS representatives concerning hiring Covey, not one refers to Covey as a Local 853 member. That he was a relative of Aloise was the only salient fact about Covey mentioned. (Ex.102) The SWS contract provided that when the company had an opening for a new job, the involved Local could send applicants for the position. (Ex. 115 at 2) Then the company could choose from among Teamster and non-Teamster applicants to select whom it wanted. (Ex. 115 at 2) This would occur if there were no internal applicants. (Ex. 6 at 53)[88] The contract was not followed here. Strelo and Aloise were pressuring the company to hire Covey before any job was open. Indeed, on April 8, 2013, Aloise instructed Strelo to demand Passantino hire Covey. (Ex. 116) When Covey was still not hired before the job was posted, on May 14, 2013, Aloise involved the outside company lawyer he was negotiating with to ensure the company met his demand. (Ex. 124) Aloise told Kracoff, the lawyer with whom he was negotiating issues between the union and the company, he would attend a meeting he had previously intended not to attend with the company executive Steeno if Covey was not hired. (Ex. 124; Ex. 1 at 98)[89] Aloise attended the meeting on May 15. (Exs. 127, 124)[90] On Saturday, May 18, Steeno, through forwarding internal company communications to Aloise, let Aloise know all

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88 Regarding SWS, Strelo testified, "there is a requirement of the collective bargaining agreement that any open position has to go through the internal bid process first before they hire outside. . .." (Ex. 6 at 73; Ex. 115 at 7-8) According to Strelo, if the position was not filled internally, the opening would then be posted online. (Ex. 6 at 53, 73)

89 In his email, Aloise threatened, "If Steeno doesn't hire mark covey, I might now show up." (Ex. 124)

90 After his sworn examination, Aloise contended that the word "now" in his email might be a typo for the word "not". (Ex. 183 at 14) It is part of his I did not mean what I said when I said it defense for many of his statements. In any event, that would then be a threat to not attend a union business related meeting if his cousin were not hired, equally damning.

the company had done to get his cousin hired. (Exs. 129, 367) On Monday, May 20, SWS invited Covey to come in for an interview. (Exs. 131, 367)

In his actions regarding Covey, Aloise was not acting as a union official trying to find work for a member. No other unemployed member had been contacted by the Local about the "good job" Aloise admitted he secured for Covey with fully paid pension and healthcare benefits. (Ex. 135; Ex. 183 at 11; Ex. 6 at 62)[91] Passantino reminded SWS employees of how angry both Aloise and Steeno would be if somehow Covey was overlooked. (Ex. 129) Consistent with trying to get Covey hired at Gillig, Covey's union membership was not relevant to Aloise's demand for the employer to hire him. (Exs. 98, 106) The only item discussed in the company emails Aloise had was his family relationship to Aloise. Using his power to force the company to hire his hard-to-place cousin was, as Strelo noted at the time, an act of love. (Ex. 136) Steeno informed the company lawyers that Aloise had placed tremendous pressure on him to hire Covey. (Ex. 102)

Aloise's enlistment of SWS labor lawyers, with whom he was in active negotiations, in ensuring the company hired his cousin as he demanded was further evidence that this was not a routine hiring of an unemployed member. (Exs. 110, 112, 124, 132) The lawyers had no normal role in the contractual hiring process for the job Aloise was demanding for Covey. What they were involved in was negotiating with Aloise, as the union representative, matters of importance to the company and the union. (Exs. 110, 112, 124, 195) Aloise, a sophisticated negotiator, understood that in that role, they were eager to keep him placated as Korshak had in Minnesota. (Exs. 195, 78, 81; Ex. 1 at 82) See, United States v. DeBrouse, supra, 652 F.2d at 387 (using

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91 The Local had a list of out of work members seeking warehouse work. (Ex. 6 at 19-22) Strelo acknowledged that he did not tell any of these members about the position at SWS. (Ex. 6 at 62) Strelo claimed the SWS job, with its fully paid benefits, was not good enough for other members who were warehousemen. (Ex. 135; Ex. 6 at 73) Since he did not make the offer to any unemployed member on the out of work list for warehouse employees (Ex. 6 at 62), there was no proof of his claim let alone that Local 853 jobless members who were not warehousemen were not interested in a job with fully paid benefits. Neither Strelo nor Aloise informed unemployed members other than Covey not yet employed at SWS about the job. (Ex. 6 at 50, 62)

company personnel outside normal process but involved in union negotiations evidenced Teamster officer's request was not a routine business one).

Strelo testified that he learned that an employee at SWS was going to retire. (Ex. 6 at 50) He suggested to Aloise that Covey apply for the job. (Ex. 6 at 50)[92] Aloise, who was offered an opportunity to testify about any matter covered during his sworn examination, chose to remain silent. (Ex. 1 at 153) After his examination and weeks of reflection, he submitted a declaration. (Ex. 184) In that, he claimed his actions for Covey were routine and what he would do for any member of Local 853 looking for employment. (Ex. 184 at 3-4) He also added no other Teamster wanted the job Covey got and it was the lowest paying position under the contract. (Ex. 183 at 14-15)[93] Those claims were not supported by the documents. Involving outside company lawyers with whom the union was negotiating was not a routine step in requesting according to the contract a member be considered for a job opening. There was not any evidence that the job, which Aloise described as a good, hard-to-get one with fully paid benefits, was brought to the attention of any other unemployed member of Local 853 not related to Aloise.

Not once in the email communications with SWS did Aloise or the company mention that Covey was an out-of-work Local 853 member. As far as the company was concerned, Covey's

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[92] After Strelo yelled at Steeno, as discussed above, he spoke with Aloise because, ". . . He was interested in knowing what the timetable was. He was getting a little frustrated, as he usually does. He's a man with a lot on his plate. He doesn't have a lot of patience sometimes. I get that. And again, you got to understand. It's a relative with a disability, who is an adult, which that makes it doubly more difficult to find a job. I'm sure he was getting some family pressure as well. Mark was anxious to get to work. I was anxious to help him out. . . . (Ex. 6 at 69-70) Strelo recognized in these circumstance that the job was of particular value to Aloise.

[93] Strelo testified that when he spoke to Passantino about Covey being a candidate for the job, Passantino "was thankful because it's not a position that was easy to recruit for because it's such an entry-level job. Because the pay is not very good, they have trouble finding qualified applicants they can hire." (Ex. 6 at 51-52) The company's alleged joy at having Covey brought to their attention was not found in any contemporaneous emails Aloise had. Strelo testified that at the time Covey got the position, the pay was $14 per hour while warehouse employees received $28-29 per hour. (Ex. 6 at 62-63) Given the benefits and Covey's difficulty in finding employment, the job, as Aloise informed Covey, had substantial value. (Exs. 135, 193) Local 853 had members who were not warehouse employees, including at parking companies. (Ex. 174)

only attribute was that he was related to Aloise and that Aloise, with whom they were in active negotiations, demanded Covey be hired. (Ex. 102) This was not a routine company action to fill an open position pursuant to its contractual rights. It was under no obligation to hire a Teamster. (Ex. 115 at 2) Aloise was forcing the company to not exercise its discretion in filling the job that the contract provided it could exercise. In addition, SWS was under no obligation to keep Covey employed as a non-fully performing worker when he proved during the probationary period he could not do the job. Aloise made these requests to and demands of the company for employment of Covey and, when Covey proved incapable, for his retention, not because Covey was a Local 853 member as he now claims, but because he was a family member. (Ex. 184 at 3-5; Exs. 102, 136) He involved the company's labor lawyer with whom he was in negotiations to impress upon the company the importance of meeting his demands for hiring and retention of his cousin. (Exs. 124, 126)

Indeed, Strelo acknowledged that Aloise felt pressured to get Covey hired because of his familial relationship. (Ex. 6 at 69-70) He contemporaneously summarized Aloise's motive behind the efforts they exerted to force SWS to hire Covey as, "The things we do for love." (Ex. 289)

Aloise forced Covey on the company outside of the contract. When Aloise was pressuring the company to hire his cousin, he was negotiating with the company multiple issues affecting members. (Exs. 124, 126) His actions were in blatant conflict with members' interests. It was conduct squarely within the prohibitions of 29 U.S.C. §186(b) and the Consent Order.

As he wrote to the company lawyers, SWS executive Steeno was under tremendous pressure from Aloise to hire his cousin. (Ex. 102) Moreover, when on probation Covey demonstrated the inability to perform the job, the company still kept him as a result of Aloise's new request in order to avoid the union officer's displeasure despite Covey's inability to perform.

(Ex. 102) Throughout all of this, Aloise, the union official the company trusted to keep other Locals in line with its expectations, was actively involved in negotiations with the company for Local 853 and other IBT Locals. (Exs. 88, 126, 194)

Moreover, that Aloise's request to SWS to hire Covey was not a routine union action to find work for an unemployed member was evident from its consistency with Aloise's pattern evidenced in 2013 of requesting things of value from Teamster employers and others in conflict with the interests of the members for whom he was a fiduciary. 29 U.S.C. §501(a).

5. Analysis

A union official's request for a thing of value from an employer of the members he represents is a criminal act violating 29 U.S.C. §186. It is also an act of racketeering. 18 U.S.C. §1961(1). As such, all IBT officials are explicitly enjoined from committing such conduct. (Ex. 158 at 6-7) Aloise during contract negotiations requested SWS through the company's lawyer he was negotiating with to provide valuable tickets on short notice to the 2013 private Playboy Super Bowl party and requested both SWS and Gillig for a job for his difficult-to-place cousin. He also solicited SWS to retain his cousin on its payroll when his inability to perform his duties normally would have resulted in his firing during the probationary period. Both the tickets that were not available to the public to an event described as exclusive and the jobs were things of value. From SWS, Aloise solicited and accepted these things of value while actively negotiating with the company on behalf of the union. Aloise violated both the Taft-Hartley statute and the injunction in the Consent Order in United States v. IBT. (Ex. 158 at 6-7) Aloise's second solicitation of a job from Costco for his stepson, his solicitation also of UPS for a job for him and Aloise's declaration to vendors that they owed him for his action with the Fund that benefitted them show

the job solicitations to union employers for his cousin were part of his pattern of asking for personal favors in return for union action or because of his union power.[94] He did not hesitate to create conflicts of interest in asking for personal favors from parties to whom, as a union official, he was prohibited from making such requests.

The admissions to the Super Bowl party, the jobs and the retention of a non-performing employee were things of value. Under the case law, "[v]alue is usually set by the desire to have the 'thing' and depends upon the individual and the circumstances." United States v. Roth, 333 F.2d 450, 453 (2d Cir. 1964). The Sixth Circuit explained that the prohibition against requesting a thing of value under the statute is not limited to requesting money. "Truly, of all the things in this world widely regarded as valuable, money and the like comprise only a small percentage." United States v. Douglas, 634 F.3d 852, 858 (6th Cir. 2011). In that case, union representatives requested an employer whose members the union represented to provide particular jobs for third parties. These were not no show jobs and were not being created at the union officers' request. The union officers requested they be given outside the contract. Those jobs were found to be things of value. Indeed, the court found the value of a job was undeniable. Id. at 858; cf. United States v. Gorman, 807 F.2d 1299, 1305 (6th Cir. 1986) ("thing of value" under federal criminal conflict of interest statute includes promise of future employment). Similarly, the IBT Election Appeals Master, in a matter directly involving Aloise, determined that a job is a thing of value. In re: Fred Gegare, 11 Elec. App 3 (Feb. 16, 2011) (Ex. 159 at 3-4) (a union job is a thing of value); relying on fact finding in In re: Fred Gegare (after remand), 2011 ESD 73 (January 20, 2011) (Ex. 324); In re: Fred Gegare (after second remand), 2011 ESD 165 (March 14, 2011) (Ex. 370); In re: Fred Gegare (after second remand), 11 Elec. App. 3 (April 1, 2011) (Ex. 371). Here, Aloise

[94] The only year for which the IRB obtained Aloise's emails was 2013. These suggest he requested a thing of value from IBT employer Costco to be given to a relative on at least one earlier occasion. (Ex. 140)

explained to Covey how valuable the job at SWS was, one reason being the remote likelihood of another job for him at his age. (Ex. 135) That Covey was a difficult to place older candidate only increased the value to Aloise of the job he solicited. United States v. Roth, supra, 333 F.2d at 453.

Similarly, the six admissions to the Super Bowl party for Smith and his guests were things of value. These 2013 admissions were for an exclusive Super Bowl party not available to the public and needed to be obtained on two days notice. (Exs. 82, 87-89) There was a secondary market in which tickets to the Playboy party were offered for more than $1,000 each, evidencing the admissions had value. (Ex. 187) In 2012 and 2014, the prior and subsequent years, the tickets to Playboy Super Bowl parties also had significant value. (Exs. 96 and 188) The celebrity-laden Playboy party Crown Royal hosted was an event Smith was eager to attend. To do so, he needed to receive the assistance of Aloise, the International Vice President involved in active negotiations with a liquor distributor to secure them for him. Aloise made the request through the company lawyer with whom he was negotiating another Local's contract. (Exs. 78, 86) As a result, an executive at the highest level of SWS became involved. (Exs. 78, 86) Aloise stressed the company's involvement to Smith, evidencing both Aloise's understanding of the employer's effort to secure his request and the tickets' value. (Ex. 89) After communicating with Aloise, in spurring the company to obtain them, the company lawyer emphasized to the executive the tickets that Aloise requested were for high level IBT officials. (Exs. 87, 88) As Aloise knew, the lawyer when passing Aloise's request to SWS, described Aloise as invaluable to the company in achieving its goals in negotiations with the Minnesota IBT Local by dampening the Local's demands. (Exs. 87, 88) To secure the tickets to the party for Aloise, the employer offered to purchase them. (Ex. 87) In Aloise's thank you note to the Teamster employer, in order to justify the employer's expending the effort on his behalf to secure the exclusive tickets on short notice, Aloise stressed to the

Teamster employer's President that an important Teamster official, who was grateful, used the tickets. (Ex. 332)[95] The admissions were things of value to Aloise that the employer obtained at his request. The employer was motivated to reward Aloise's assistance on the Minnesota contract.

The Second Circuit noted in discussing 29 U.S.C. §186(b):

> The purpose of the statute was to prevent employers from tampering with the loyalty of union officials, and disloyal union officials from levying tribute upon employers. Congress wished to outlaw tampering with the loyalty of union officials by forbidding the delivery to any such official of that which might turn the edge of his allegiance. Recognizing that favors may be conferred in many ways under many circumstances, Congress gave the broadest possible scope to the statute by adding to the word 'money' the words 'or other thing of value.'

United States v. Roth, supra, 333 F.2d at 453 (citations and internal quotations omitted).

It makes no difference that the things of value Aloise solicited and requested were to be given to third parties. United States v. Douglas, supra, 634 F.2d at 858-59; United States v. De Brouse, 652 F.2d 383, 388 (4th Cir. 1981); United States v. Carlock, 806 F.2d 535 (5th Cir. 1986). The violative act is the union official's request to an employer of union members for a thing of value. 29 U.S.C. §186(b).

Aloise represented all Teamsters. He was the principal officer of a Local, the head of a Joint Council with jurisdiction over 100,000 members and an IBT International Vice President at Large. The employers he solicited employed Teamster members in his and other Locals. SWS and the union were engaged in active negotiations on several issues when Aloise sought the six tickets to the Super Bowl party stressing to the IBT employer they were for a high ranking IBT official, pressured the company to hire his cousin and then requested that his cousin be kept employed even after it was known during the probationary period he could not perform the job

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95 Aloise did not email a thank you note to any executive at Diageo evidencing he knew well these items of value were obtained on his behalf by the IBT employer he was negotiating with.

adequately. Highlighting to the employer the connection between the issues open between the company and the union, Aloise used the company's lawyer representing it in the negotations as his intermediary. (Exs. 87-90) The company was eager to meet his demands because Aloise, among other things, was seen as a buffer against more aggressive union negotiators. (Exs. 78, 199, 331) His solicitations of and receiving things of value from that employer during those negotiations were blatant conflicts of interest that the statute was intended to prohibit. Further evidencing Aloise's message that these requests were tied to his union positions, Aloise used his union email address to make his requests. He also recruited a union employee to assist in his pressing SWS over the requested job for his cousin and involved another in his plan for retribution against Gillig for not honoring his request.

Section 29 U.S.C. §186(a) and (b) serve as a conflict of interest statute that Congress passed to eliminate practices that have the potential for corrupting labor unions and union officials. United States v. Phillips, supra, 19 F.3d at 1574; United States v. Browne, 505 F.3d 1229, 1249 (11th Cir. 2007). When Aloise made these requests of the employers, SWS was in active negotiations with the union. Even when not negotiating contracts or major contract issues, SWS and Gillig would have been dealing with grievances and other contract enforcement issues with the union. (Ex. 5 at 37-38; Ex. 6 at 29, 38-40, 42, 44-45)

Aloise claims he had no corrupt intent. (Ex.183 at 2, 15) That is not relevant to whether he violated the statute. The statute requires the union official act willfully. Because he had knowledge of what he was doing, Aloise acted willfully under the statute. 29 U.S.C. §186(d)(2); E.g., United States v. Phillips, supra, 19 F.3d at 1579. The "willfully" in the statute only requires a finding of general intent. That is, Aloise acted knowing what he was doing and not by mistake or accident. There is no requirement that Aloise knew he was violating the law or acted with evil

intent. Here Aloise knew he was a union representative, knew SWS and Gillig employed members he represented and knew he was asking the employer for a thing of value. No more is needed to find he committed the forbidden criminal acts. United States v. Phillips, supra, 19 F.3d at 1582.

E. Aloise Brought Reproach Upon the IBT through Engaging in a Pattern of Illegal and Violative Actions to Support His Candidate and to Undermine Her Opponents' Campaigns in the 2013 Local 601 Election

In 2013, Aloise brought reproach upon the IBT through engaging in a pattern of conduct that violated the law and the IBT Constitution to assist the candidate he supported in Local 601's officer election. He repeatedly used his union positions, union resources and union personnel illegally to support his favored candidate and to undercut her opponents in a Local union election in violation of 29 U.S.C. §481(g). In addition, among other misconduct to assist his favored incumbent, he attempted to curtail members' guaranteed LMRDA rights to exercise free speech, to sue and to fair hearings. Aloise also violated his fiduciary duties as an International Vice President and Joint Council officer under 29 USC §501(a) by failing to ensure the internal political rights of all IBT members to a fair election and in ignoring and assisting wrongdoing of his favored candidate known to him. Moreover, while being actively involved in his candidate's campaign, including declaring that opposition to her was the same as an attack on him, shaping her campaign strategy and making financial contributions to it from a Local 853 officer's campaign fund, Aloise participated in the Joint Council Executive Board's consideration of her opponents' post-election complaints. Indeed, this was after he wrote a Local 853 lawyer that he would only let the opponents in Local 601 win the election over his dead body. Similarly, he also selected the panel and participated in the Joint Council decision on a disciplinary charge one of her opponents brought against his favored candidate after Aloise had declared that to attack her was to attack him. In doing so, not only did he trample on the opponents' LMRDA rights to fair hearings, but he also knowingly violated his obligations under Article XIX, §1(a) of the IBT Constitution not to

sit in judgment on matters in which he was involved. (Ex. 33) Moreover, Aloise also caused improper indirect contributions from employers to assist his candidate in connection with her campaign in violation of law, 29 USC §481(g). Through this pervasive pattern of misconduct aimed at suppressing union democracy, Aloise, a high ranking IBT official, violated his fiduciary duty to provide fair elections for members and brought reproach upon the IBT. 29 USC §501(a); United States v. IBT [Carey], 247 F.3d 370, 397 (2d Cir. 2001) ("Union democracy . . . is premised on fair elections. To that end, union officials . . . have a duty to ensure the integrity of that process and to fulfill their obligations to union members by adhering to the highest standard of governance."); Semancik v. United Mine Workers, 466 F.2d 144, 155 (3d Cir. 1972) ("Union officers . . . have a fiduciary duty under Section 501 of the LMRDA . . . to insure the political rights of all members of their organization."). Aloise showed in this and earlier elections that he would unhesitatingly violate the rules and law if they interfered with his political goals.

1. The 2013 Local 601 Election

In 2013, there was an officer election in Local 601 in Stockton, California. The Local was in Joint Council 7. As early as February, Aloise pronounced in an email his commitment to re-elect the incumbent, Marie Ashley Alvarado ("Alvarado"). (Ex. 205) Two other slates ran in that election: one under Rolando Pimentel ("Pimentel Slate") and the second under Juanlucio Reyes ("Reyes Slate").[96] On May 29, 2013, Aloise revealed his partiality in an email to a retired Teamster when he stated that to run against Alvarado was to run against him. (Ex. 200) Subsequently, a day before the Local's nomination meetings on November 6 and 7, Aloise declared to an ally that the only way he would allow Alvarado's defeat was "over his dead body". (Exs. 201-203)

[96] Reyes' father was previously the Local's principal officer who lost to Alvarado in the 2010 Local 601 election. (Ex. 288) In 2011, he ran unsuccessfully for International Vice President. (Ex. 292 at 1; Ex. 361)

In February 2013, Aloise wrote John Hailstone ("Hailstone"), a retired former business agent at Local 948, concerning the election in Local 601 that, "I don't want any interference in Local 601." (Ex. 205) Contrary to any principle of union democracy, Aloise believed he had the power to decide in what particular Locals incumbents could be challenged. For example, he gave Hailstone his permission to be involved in Local 948's election while ordering him to stay out of Local 601's. (Ex. 205) After Aloise learned in May that Hailstone, contrary to Aloise's earlier decree, might be supporting the Pimentel slate in Local 601 in opposition to his favorite the incumbent, Ashley Alvarado, he, again using the union email system, declared to Hailstone, "Let me make it clear, anyone who runs against Ashley is running against me and I will treat them accordingly from now and forever." (Ex. 200)

Aloise used union resources to aid Alvarado's re-election, to undermine her opponents and to interfere with Pimentel's LMRDA protected rights to free speech, to sue and to a fair hearing. He also further engaged in his pattern of reproachful conduct when, knowing of it, he failed to act to end Alvarado's defiance of the General Secretary-Treasurer's instructions to address financial issues discovered in Local 601 through the IBT's auditing program. The Local was in a deteriorating financial condition. Aloise did so to protect Alvarado from the political consequences of her over two year refusal to follow an IBT auditor's directions regarding required financial reporting and actions she was instructed to take relating to the unsustainable sabbatical leave policy for officers and employees of her Local.

Aloise's Pervasive Pattern of Misconduct

2. Aloise used Union Resources to Support His Candidate in the Local 601 Election in Pervasive Violations of Law

The Local 601 officer nomination meetings were held on November 6 and 7 and the vote counted in December 2013. (Exs. 202-204) Throughout the year, Aloise continuously improperly used union resources to support Alvarado. As shown below, he used union equipment, facilities, its email system, personnel and the resource of its political influence to support Alvarado in violations of 29 USC §481(g).

Among other things, on numerous occasions, Aloise improperly used the union email system to advise Alvarado on how to run her campaign, including that she should affirmatively defraud members through falsely attributing her campaign's actions in the election to the other slates. (Exs. 206-209, 211-213) For example, Aloise explained to her, using the union email system to send an email to Alvarado's union email address, that the truth did not matter in terms of what she told the members about her opponents. (Exs. 208, 211, 212, 213) Indeed, Aloise under oath stated he believed it was politically savvy for IBT incumbents to lie to members to retain power. (Ex. 1 at 141-142) Aloise testified:

> Q: In this e-mail you are providing Ashley advice that she should get people who can't get traced back to her to distribute the leaflets falsely having one of her opponents attacking the other; is that correct?
>
> A. Absolutely.
>
> Q: Is it your advice, that she should make false statements when it's convenient?
>
> A: That's my political advice.

(Ex. 1 at 141-142)[97]

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[97] The IBT Code of Conduct applicable to Aloise asserts that one of the core values of the Code is that, "International Union officers . . . must be fair and honest in dealing . . . with members." (Ex. 192 at 2) Aloise's core values differed and he believed an officer should lie to gain a political advantage. (Ex. 1 at 141-142) The LMRDA does not allow false speech to be the subject of internal union discipline. 29 U.S.C. §411(a)(2) and §529; Salzhandler v. Caputo, 316 F.2d 445, 451 (2d Cir. 1963) cert. denied, 375 U.S. 946 (1963). It does not endorse it as the standard to be followed by high-ranking IBT officials when communicating with members. By no

In another example, on August 16, 2013, using his union address and email system, Aloise sent an email to Alvarado with the subject "Suggested Leaflet". (Ex. 206) Aloise's email stated, "Here is an idea" and attached a leaflet attacking Reyes, one of Alvarado's opponents. (Ex. 206) The metadata for the leaflet showed that Aloise created it at Local 853 on the Local's equipment. (Ex. 206) Minutes later, again using his union email, Aloise sent the campaign leaflet to Alvarado and others involved in Alvarado's campaign, including then Local 439 principal officer Sam Rosas ("Rosas"), stating, "I think you need to get these into the shops ASAP. Have your stewards distribute them. I don't think you can pull any punches here, destroy Lucio and his son as early as you can." (Ex. 207)[98] Alvarado responded that her slate would be campaigning with Aloise's leaflet that Sunday at certain employer facilities. (Ex. 312)[99] Aloise further instructed Alvarado, copying Rosas, "It should go into the ones where Lucio Leafleted, and really shouldn't be you guys handing it out. Can you get some members and/or stewards? This is also one that your agents can clandestinely drop off in lunch rooms, etc." (Exs. 312, 322, 323)[100]

In communications with Alvarado and her campaign manager, Pablo Barrera ("Barrera"), a Local 601 employee, concerning the election, Aloise evidenced his commitment to Alvarado's

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means does it allow an union officer's use of union resources to spread it in violation of 29 U.S.C. §481(g) as Aloise claims. (Ex. 1 at 141-142) Those in power are prohibited from using union resources to entrench themselves and their political allies. See, 29 U.S.C.§481(g); 29 C.F.R. §452.76. Retail Clerks Union, Local 648 v. Retail Clerks Intern. Ass'n, 299 F.Supp. 1012, 1023 (D.D.C. 1969)

98 On the bottom of the leaflet Aloise created, he falsely stated, "Produced by Shop Stewards and Concerned Members of Local 601". (Exs. 206-207) It had in fact been produced by an officer of Local 853 who was also the head of the Joint Council and an International Vice President.

99 Aloise now contends that despite Alvarado's enthusiastic pledge to use them, his pamphlets were never distributed. (Ex. 184 at 12; Ex. 183 at 19; Ex. 312) The offense is not the pamphlet but Aloise's consistent misuse of union resources to support Alvarado's candidacy. There is no question that was what was done in this instance. Hodgson v. Liquor Salesmen's Union Local 2, 444 F.2d 1344, 1350 (2d Cir. 1971)

100 Rosas was Local 439's Secretary-Treasurer in 2013. (Ex. 329) He was a political ally of Aloise and Alvarado who Aloise kept involved in the Alvarado campaign. (Exs. 207, 209, 210, 212-214) Aloise would despite this later put Rosas on a panel to hear charges an opponent filed against Alvarado and allow Rosas to sit on the Joint Council's consideration of her opponents' post-election protests. (Exs. 278, 267, 260, 319, 318)

election by frequently using the pronoun "we" when instructing on what needed to be done for her campaign. (Exs. 211, 212, 214, 215, 250)[101] In an email from his union address again using the union email system on November 7 to Alvarado's union address, Aloise instructed Alvarado that they should have third parties distribute fraudulent campaign literature in which they falsely attributed to one opposing slate an attack on the other non-Alvarado slate. (Ex. 212) Using his official union email account and the union email system, Aloise provided Alvarado at her official union address a leaflet in which he falsely attributed to the Pimentel slate an attack on the Reyes slate for use in her campaign. (Ex. 212) Aloise created that leaflet at Local 853, using its equipment. (Ex.1 at 142; Ex. 212) A few minutes later, Aloise also provided her and her campaign team a second leaflet in which he falsely attributed to the Reyes slate an attack on Pimentel. (Ex. 213) The Alvarado campaign team included her campaign manager, Barrera, a Local 601 business agent, Rosas, Secretary Treasurer of Local 439, and Robert Bonsall ("Bonsall"), a lawyer at Beeson Thayer Bodine ("Beeson firm") who was active in Alvarado's campaign. (Ex. 1 at 131; Exs. 236, 207, 209, 212, 213, 214, 329) Aloise also had created that leaflet at Local 853 using its equipment and sent it using the Local email system. (Ex. 1 at 143; Ex. 213) Aloise sent this to the union email addresses of Alvarado, Barrera, and Rosas. (Ex. 213) Aloise again improperly used union resources to assist his candidate. That she may not have used the pamphlets, as Aloise claims, did not cure the violation of 29 U.S.C. §481(g). (Ex. 183 at 19; Ex. 184 at 12) That Aloise was advocating she mislead the members was not an offense but it was evidence that he believed firmly in lying to hold onto power in the union. That unwavering belief he held of the utility of lying impeaches his current explanations for his earlier misconduct.

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[101] Barrera was a business agent in Local 601 whom Aloise recognized as Alvarado's campaign manager. (Ex. 1 at 131; Exs. 212-214) Barrera, on communications with Aloise about the Alvarado campaign, frequently misused union property in the form of the IBT's horsehead logo in his Alvarado campaign efforts. (Exs. 275, 336-338; Ex. 33 (Article VII, Section 9 of the IBT Constitution), Ex. 341 (29 C.F.R. 452.76))

The next day, November 8, Aloise, again using the union email system, contacted an out-of-state vendor, Richard Leebove ("Leebove"), to request he design literature for Alvarado's campaign. (Ex. 218)[102] Aloise informed Leebove that he would pay for the material that he would order for Alvarado. (Ex. 218) Leebove knew who Alvarado was. (Ex. 1 at 143) Leebove directed Aloise to his associate, Phil Turner ("Turner"), for assistance in producing Alvarado's campaign literature. (Ex. 220)[103] On five days over a seven day period, Turner did work designing and advising on print items Aloise forwarded and requested he design relating to Alvarado's campaign. (Exs. 216, 217, 221, 223-231) He sent samples back to Aloise. (Exs. 222, 226, 229, 230, 231) In all Aloise's communications to and from Turner concerning Alvarado's campaign literature he only used the union email system. (Exs. 216, 217, 221, 223-231; Ex. 1 at 133) On November 14, 2013, the vendor informed Aloise he was ready to ship the sample ballots that Aloise had requested him to create. (Exs. 230, 231) Aloise admitted the vendor, who was an employer, was not paid for his time working on Alvarado's campaign at Aloise's request. (Ex. 1 at 144) Aloise claimed that this vendor never produced anything that was distributed. (Ex. 1 at 144) In addition to Aloise's misuse of union resources to attempt to obtain campaign literature for Alvarado, the donation of services from a vendor-employer to Alvarado's campaign that Aloise caused to be made was an illegal indirect contribution to support a candidate. (Exs. 216, 217, 221, 223-231) 29 USC §481(g);

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[102] In April, Barrera, Alvarado's campaign manager, using the union's email system, sent an email to Aloise stating that he was going to help put together a flyer regarding Reyes, one of Alvarado's opponents in the election. (Ex. 219; Ex. 1 at 131) Barerra attached one of Reyes' flyers to his email. (Ex. 219) Using the union email system, Aloise sent Leebove Barrera's email with the attachment. (Ex. 219) Aloise described Leebove as political consultant to the IBT. (Ex. 1 at 31) In 2013, the IBT paid Leebove's company, RL Communications, $136,932. (Ex. 119)

[103] Turner, who was in Michigan, had a company, PJT Consulting. (Ex. 277) He also had worked with Leebove's company RL Communications. (Ex. 277) Turner copied Leebove on his communications with Aloise. (Exs. 222, 224)

29 CFR 452.78 (all employers covered).[104] As such, it was as prohibited as Aloise's use of union resources in connection with Alvarado's campaign. 29 USC §481(g); 29 CFR 452.78 (Exs. 216-217, 221-231)

3. Aloise Also Attempted to Interfere with Members' LMRDA Rights and Rights Under the IBT Constitution

Because of Pimentel's opposition to Alvarado, Aloise attempted to suppress Pimentel's LMRDA free speech rights, misusing union resources and his Joint Council position to do so. Pimentel's opposition to Alvarado was a protected expression of speech. Title 29 USC §411(a)(2) provides in pertinent part:

> Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments, or opinions.

In addition, Aloise interfered with Pimentel's fair hearing rights and members' rights to sue. 29 U.S.C. §411(a)(4) and (5).

The IBT Constitution made it an offense for Aloise to retaliate or threaten to retaliate against a member for his political activity and legally protected rights, Article XIX, Section 7(b)(10) of the IBT Constitution. (Ex. 33)

a. Aloise Attempted to Curtail Pimentel's LMRDA Free Speech Rights

On several occasions, Aloise, in retaliation for running against his chosen candidate, acted to suppress Pimentel's LMRDA free speech rights. In violation of the LMRDA and the IBT Constitution, Aloise used a bogus Joint Council hearing rule to attempt to suppress Pimentel's

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104 The services were donated even if the product ultimately was not used as Aloise claimed. (Ex. 1 at 144)

possible use of Alvarado's picture in connection with the election. (Ex. 257) Aloise threatened to file an internal charge against Pimentel, Alvarado's opponent, for violating a non-existent Joint Council rule if anyone, not Pimental alone, distributed pictures of her from the October 8, 2013 Joint Council panel hearing on the charge Pimentel filed against her. (Exs. 257, 273, 278) On October 9, in an email from her union address to his, Alvarado on her union email system in furtherance of her campaign, reported to Aloise on his union system her distress at pictures of her that her opponents, Reyes and Pimentel, were using in their campaigns. (Ex. 269)[105] After receiving Alvarado's concerns, that same day, Aloise on Joint Council letterhead threatened Pimentel with a bogus charge to block his free speech rights to make use of photographs of Alvarado, if he had them. (Exs. 257, 269, 273)

Aloise's political purpose was obvious. On October 9, 2013, Aloise wrote to Pimentel on Joint Council letterhead that Pimentel had been accused by unnamed persons of improperly taking pictures of Alvarado at the October 8 hearing on the charge against her. (Ex. 257) Aloise asserted this violated a Joint Council rule that did not exist. (Ex. 1 at 136-137; Ex. 274) However, Aloise represented that he would only act against Pimentel for violating the alleged rule against taking pictures during a hearing if Pimentel or anyone else used the pictures. (Ex. 257) The action Aloise wanted to discourage and proposed to punish, circulating photos of an opponent in an election campaign, showed the violation of the bogus rule was not his concern.[106] As his letter on Joint

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105 Aloise noted she separately may have complained to him that Pimentel or a member of his slate had taken her picture at the hearing. (Ex. 1 at 136-137)

106 After weeks of reflection after his testimony, Aloise claimed his concern was it disrupted the hearing. (Ex. 183 at 23-25) When asked during his sworn examination about his letter to Pimentel, Aloise did not claim it was a concern over disruption; rather, he invoked the alleged rule as being grounded in common decency. (Ex. 1 at 137) Disruption was not mentioned in Aloise's letter to Pimentel. (Ex. 257) It is not supported by the record of the hearing. (Ex. 278) It was not the nature of the conduct complained of to be disruptive. It would not be cured by the conduct he was demanding of Pimentel. His proposed remedy, suppression of the photographs, did not address disruption.

Council letterhead evidenced, all Aloise was interested in was suppressing possible Pimentel campaign material after Alvarado had complained to him about her opponents use of photographs in their campaign. (Exs. 269, 257)[107]

There was no written Joint Council prohibition against picture taking at or before a hearing. (Ex. 1 at 136-137; Exs. 270, 274)[108] Admitting it was not a written rule, Aloise claimed it was something "common decency" demanded. (Ex. 1 at 136-137) At the time he was deposed, Aloise gave no other reason for the rule. (Ex. 1 at 137) The evidence showed Aloise was willing to violate Pimentel's LMRDA and IBT Constitutional rights to free speech in order to aid Alvarado to suppress any more unflattering pictures of her that her opponents might use in the campaign. (Ex. 257) Aloise used Joint Council resources including its letterhead to do this. (Exs. 257, 273) He had the Joint Council lawyer draft the letter. (Exs. 257, 273)[109] When Aloise signed and sent it, he adopted the frivolous allegation and its forbidden purpose. Further evidencing the political nature of the letter, the following day Aloise forwarded the letter to both Alvarado and Bonsall who was active in Alvarado's campaign. (Exs. 364, 207) They had not been copied on the letter to Pimentel. (Exs. 257, 272) There was no reliance on counsel here as Aloise suggests as a defense.

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107 Aloise threatened to hold Pimentel responsible regardless of who circulated the photographs. (Ex. 257)

108 The IBT Constitution gave power to the Joint Council to: "...exclude any method of verbatim recording not authorized by it." IBT Const. Article XIX, Sec.1 (c). (Ex. 33) There was no provision in the Constitution or Joint Council Bylaws that addressed photographs. (Ex. 270)

109 Aloise's claimed sense of common decency was not an adequate basis for threatening to enforce an unwritten, unpublished rule against a member. As the court noted in Semancik v. United Mine Workers, supra, 466 F.2d at 157, "[r]equiring unions to limit their prosecutions to constitutional provisions and by-laws which reasonably inform union members of the nature of the proscribed activity is a logical extension of the requirement of a full and fair hearing in accordance with due process." A union official of Aloise's decades of experience would have known that charges could not be based on a rule never promulgated and which was created after the alleged offense. Given his enormous power within the union, his threat of bringing such an unsustainable charge was further proof the threat was intended to violate Pimentel's LMRDA right to free speech. Perhaps recognizing that, Aloise, days after being deposed, contended for the first time that the unwritten rule was to prevent disruption of hearings which he had not given as an explanation when asked under oath. (Ex. 183 at 23-24; Ex. 1 at 136-137) As explained below, that rationale was also frivolous.

(Ex. 183 at 23-25) No legal advice was being provided. Aloise knew what the Joint Council hearing rules were.

Pimentel replied to Aloise that he had not taken any pictures. (Ex. 271) He suggested to Aloise that he should have contacted him to ask if he had, before threatening him with a charge. (Ex. 271)[110] Pimentel further stated, "As President of the Joint Council we look to you for fairness and impartiality when it comes to internal local union elections, and so were a bit surprised that you would send us such a warning without having determined the facts, but we hope this clears this issue up." (Ex. 271) Since Aloise's goal was only to suppress any pictures of Alvarado, he had no reason to contact Pimentel about the facts. Aloise did not disclose to Pimentel he would not receive impartiality from him as the head of the Joint Council because he considered an attack on Alvarado as an attack on himself. (Ex. 272) Instead, Aloise feigned indignation that his impartiality could be challenged. (Ex. 272)

After he floated the common decency explanation for the no photo rule at his sworn examination, Aloise weeks later asserted that his mythical no pictures rule was aimed at preventing disruptive conduct at the hearing. (Ex. 1 at 136-137; Ex. 183 at 24) That claim was equally incredible. It was not mentioned in his letter to Pimentel. (Ex. 257) His threat to hold Pimentel liable for the surfacing of any pictures by anyone did not address alleged disruptive wrongdoing. (Ex. 257) This was just a belated false tactical rationale for his own misconduct. Disruption of a hearing through cell phone picture taking, if actually occurring, would have been addressed by the panel of experienced officers hearing the matter. The absence in the hearing transcript of any statement by the panel or Alvarado concerning disruptive conduct confirms it was not a notable issue. (Ex. 278)

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110 On July 1, 2013, Pimentel had sent Aloise an email explaining his reasons for running against Alvarado. (Ex. 238) Aloise did not reply indicating he was supporting Alvarado.

Further evidencing the sham nature of Aloise's threatened charge was that there were others far better situated to file a charge if one were appropriate. Alvarado, who was present at the hearing, was capable of filing a charge under Article XIX of the IBT Constitution if there had been a rule violation that she wanted to pursue. (Ex. 33)[111] Moreover, she also could have raised the issue with the panel that was hearing the charge against her if she had a legitimate concern. In addition, any panel member could have intervened and warned Pimentel, if any conduct he was engaging in at the hearing, including taking a picture, was disruptive and violated a Joint Council rule. Any panel member who witnessed the alleged misconduct could also have filed a charge. The transcript of the hearing contained no Alvarado complaint about picture taking and no panel statements concerning it. (Ex. 278) This is despite the panel including Rosas whom Aloise appointed knowing he actively assisted Aloise with Alvarado's campaign. Moreover, given the contemporaneous evidence, even if it did occur, taking a cell phone picture was not disruptive of the hearing or it would have been commented on in the transcript. Aloise, who was not present at the hearing and alone knew of the rule he created, rushed to intimidate Pimentel on Joint Council letterhead using union resources improperly to attempt to suppress his political use of the alleged photographs of Alvarado with his spontaneously invented rule. The mythical rule sprung into being after Alvarado complained to Aloise about how unflattering she found the pictures of her that her opponents were using in the campaign. (Exs. 257, 269, 270, 273) Aloise made his improper threat to Alvarado's opponent using the power of his office and Joint Council letterhead to suppress Pimentel's rights to the advantage of his candidate. In using those union resources to assist Alvarado, he also violated 29 USC §481(g).

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111 On October 3, 2013, Barrera had filed a charge against Reyes, one of Alvarado's opponents, for violating the Local's Bylaws by impersonating a business agent. (Ex. 275) Alvarado was involved in making this happen (Ex. 328) In the past, she had prompted Aloise to file a charge against her rival Reyes in the 2011 International election. (Ex. 293 at 2)

In reply to Pimentel's statement that he hoped for impartiality, Aloise again using Joint Council letterhead, histrionically bristled at the suggestion that he was not impartial. (Ex. 272) He deceptively cloaked himself in a false claim of impartiality. (Ex. 272) Aloise's hastily threatened charge against Pimentel stood in stark contrast to his tolerance of Alvarado's open illegal use of her union email system and union resources to support her candidacy that he allowed her to do throughout the campaign.[112]

In November, Aloise again attempted to violate Pimentel's free speech rights and also attempted to interfere with members' right to sue Local officials, 29 U.S.C. §411(a)(4). Local 601 nomination meetings were held on November 6 and 7, 2013. (Ex. 202, 203) Before then, Aloise had come to believe that Kenneth Absalom ("Absalom"), a lawyer who did work for Teamster locals, members and ex-members, was aiding the opposition to Alvarado. (Exs. 233, 240) As an example of Aloise's suspicions, when Pimentel filed a charge in September 2013 with Joint Council 7 against Alvarado, Aloise shared his opinion with Alvarado at her union email address and with her lawyer, Bonsall, that Absalom had to have assisted in the writing of the charge. (Ex. 233)[113] That ex parte communication through the union email system from Aloise, who should have recused himself from any Joint Council matter concerning Alvarado and her opponents, was on a subject not relevant to the Joint Council's adjudication of the charge. It was not union business but was of interest to Aloise and the others on Alvarado's campaign team. Evidencing the improper concern Aloise sparked, on October 8, at the hearing on the charge after Pimentel testified, the panel Aloise had appointed requested from Pimentel the name of the lawyer who had

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[112] Aloise would have been aware of a sustained charge against Alvarado for her previous use of union resources in an International campaign. (Ex. 288 at 9-10) In that same opinion, charges against his campaign were not sustained. (Ex. 288 at 7)

[113] This was sent through Aloise's union email system. (Ex. 233) All his many email communications supporting Alvarado's campaign came from and through the union email system. (Ex. 1 at 133)

prepared him for his testimony, an inquiry not relevant to the proceedings and one not made of Alvarado. (Ex. 278 at 77-78)

Later, on November 5, Aloise wrote to David Rosenfeld ("Rosenfeld"), a lawyer who did work for Aloise's Local, that Absalom "is definitely tied into Lucio Reyes and Hailstone who have formed this unholy alliance to remove Ashley. This will happen over my dead body." (Ex. 1 at 139; Ex. 201; Ex. 234 at 26; Ex. 235 at 21) Aloise's comment to Rosenfeld was in connection with a draft of a letter that Aloise sent him to review and planned to send to all locals in the Joint Council, advising them not to retain Absalom because he had assisted Alvarado's opponent Pimentel in filing a suit against an Alvarado supporter. (Ex. 237) The filing of the suit was a protected right, 29 U.S.C. §411(a)(4); Operating Engineers Local Union No. 3 v. Burroughs, 417 F.2d 370, 373 (9th Cir. 1969).

In a July 1 email to Hailstone previously described above, Aloise requested Hailstone to broadcast an ominous message from Aloise to others who might assist Alvarado's opponents in the election. (Ex. 238) He instructed: "But just to be clear, as long as I have anything to do with it, anyone who sticks his nose into 601 from the outside will never be paid by any local, council or sit on a fund again. In case you know anyone tell them I don't make threats just promises." (Ex. 238) Aloise made a promise he would use union resources to punish political opponents. Having concluded Absalom was assisting Alvarado's opponents in their LMRDA protected campaign, Aloise, as he promised Hailstone he would do, improperly used both his position on Joint Council 7 and Joint Council resources to punish both Pimentel and the lawyer assisting him in an attempt to derail the campaign. In doing so, Aloise interfered with Pimentel's LMRDA and IBT Constitutional free speech rights to oppose Alvarado through improperly harming Pimentel's campaign. 29 USC §411(a)(2). As described below, on November 5, the day before the first of

two Local 601 nominations meetings, Aloise improperly used union resources in violation of 29 U.S.C. §481(g) to harm Pimentel's campaign and hinder Pimentel's right to sue. (Ex. 239)[114]

On October 22, 2013, Pimentel and another member of his slate filed a lawsuit in state court in Sacramento against Local 601 member Joaquin Ramirez ("Ramirez") whom they asserted in connection with the Local 601 election campaign had posted and distributed leaflets at a Local 601 employer that falsely accused them of being felons, among other things. (Ex. 240)[115] The lawyer representing the plaintiffs was Absalom. (Ex. 240)[116] Bonsall, Alvarado's campaign lawyer from the Beeson firm, represented Ramirez, the Alvarado supporter. (Exs. 241, 242)[117]

On November 4, the Beeson firm, which was involved in the Alvarado campaign and represented the defendant in the lawsuit Pimentel had filed, drafted a letter for Aloise to send attacking Absalom and advising all locals in Joint Council 7 not to use his services. (Exs. 237, 239, 241, 242) Bonsall, Alvarado's campaign lawyer and Absalom's opponent in the suit, reviewed the letter before Aloise caused it to be sent to the locals through the mail using Joint Council resources. (Ex. 1 at 138-139; Ex. 237) On November 5, Aloise forwarded the letter to

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114 As discussed below, Aloise also had a broader second improper goal which was to make it more difficult for members to obtain representation by experienced union counsel in LMRDA protected suits against incumbents.

115 It would have been improper for Pimentel to bring defamation charges against a member in a union disciplinary proceeding, as Aloise well knew. The Election Supervisor in Roger Bales, 2011 ESD 286 (June 28, 2011) found a charge that Aloise had filed against a member alleging he had defamed Aloise violated the member's LMRDA rights to freedom of speech and assembly. 29 USC § 411 (a)(2). (Ex. 290) That restriction on using union disciplinary procedures for defamation charges, as the Election Supervisor noted, was as the Second Circuit explained, because "the union is not a political unit to whose disinterested tribunals an alleged defamer can look for an impartial review of his 'crime'". *Id.* at 4, citing Salzhandler v. Caputo, supra, 316 F. 2d at 450. As an example of that problem, in that matter, the Local 853 Board members, all but one of whom had contributed to Aloise's International campaign, heard the charge Aloise filed. Id. at 5 n 4. That serious concern of a rigged proceeding is absent in a court action. Moreover, there are no LMRDA free speech issues in bringing a court case for slander or defamation because a member has a right to sue. 29 USC §411(a) (4). Pimentel's only remedy to challenge Ramirez's action was a state court suit.

116 The case settled. (Ex. 243)

117 Bonsall was also the attorney for Local 601 and did work for Alvarado's campaign. (Exs. 280, 236)

Jennifer Payne, a Local 853 employee, and directed her to "put it on JC letterhead and I will sign it and get it to Joan to mail." (Ex. 198)[118] Aloise, understanding fully how partisan the Beeson firm was, signed and adopted as his own the letter the lawyers drafted. (Ex. 239) On November 5, with the slate nominations in Local 601 scheduled to begin the next day (Exs. 202, 239), Aloise used the suit Pimentel had filed as an excuse to send to all the locals in Joint Council 7 on Joint Council letterhead under his signature as Joint Council President, the following advice to discontinue using Absalom:

> As Teamsters, we expect Union lawyers to be with us in our fight for decent wages, hours, terms and conditions of employment for our members. Unfortunately, some attorneys who work for Locals in Joint Council 7 seem to see their job as suing Unions and Union members.
>
> Kenneth Absalom, an attorney from San Francisco, **recently filed a lawsuit against a Teamster who supports the reelection of Ashley Alvarado, Secretary-Treasurer of Teamsters Local 601.** In my opinion, this lawsuit appears politically motivated and calculated to chill Teamster members from getting involved in their Local Union election. Lawyers have absolutely no business trying to stifle our members in exercising their rights. **Unfortunately, this is not the first time that Kenneth Absalom has sued the duly elected representatives of Teamsters Local Unions in Northern California.** Check with either the Beeson office or David Rosenfeld. I ask you to think about whether your Local wants to encourage lawsuits as a way to influence local elections.
>
> If your Local Union currently retains Kenneth Absalom as legal counsel, you may want to consider another Union side law firm. Together, with good legal representation, we can make a real difference for our members, and we certainly don't need the interference of attorneys who seem intent on working **against the interests of the members and their elected representatives.**
>
> Please do not hesitate to contact me if you would like to discuss this matter any further.

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118 Local 853 employee Jennifer Casquiero's maiden name was Payne. (Ex. 346) Joan Semeniuk was a Joint Council 7 employee in 2013. (Ex. 282 at 16) Aloise used the services of both and the resources of the Local and Joint Council in violation of 29 U.S.C. §481(g).

(Ex. 239 (emphasis added))

In the introductory sentence in the letter, Aloise proclaimed that Teamsters expected lawyers to be with Teamsters in connection with the fight for decent wages and conditions of employment. (Ex. 239) The lawsuit he was commenting on was Pimentel's defamation suit, which was between Teamster members and did not involve any condition or term of members' employment. Aloise's comment concerning conditions of employment was completely unrelated to what Absalom had allegedly done. Aloise noted that the claim of allegedly improper political motivation was his opinion, yet used Joint Council resources to broadcast it. (Ex. 239) He did this despite the letter being an attempt to interfere with the LMRDA's purposes and IBT Constitutional rights. As the Supreme Court had announced 40 years before, union members bringing lawsuits that involve elections and challenge the incumbents was part of the LMRDA's core purpose. "Title I of the LMRDA was specifically designed to protect the union member's right to seek higher office within the union, and we can hardly accept the proposition that the exercise of that right is tantamount to 'bad faith.'" Hall v. Cole, 412 U.S. 1, 14 (1973).

Aloise in his letter as Joint Council President through Joint Council resources was advocating his side in the suit should be favored in an election related matter. This was not an act of the Joint Council for which it was appropriate for him to use its resources. It was a violation of 29 U.S.C. §481(g). Aloise provided an intentionally misleading background to what he admitted was his expression of personal opinion for which he used union resources to produce and distribute to help his favored candidate in an internal union election related matter contrary to the core principals of the LMRDA. (Ex. 239)

The LMRDA and IBT Constitution protects members' rights to bring any suit. The law does not permit the union to make distinctions between "good faith" and "bad faith" in interfering

with members' right to sue. Operating Engineers v. Burroughs, supra, 417 F.2d at 373. The letter indicated that Aloise held any suit against an incumbent was one he would claim showed bad faith. (Ex. 239)

Aloise described the defendant in the defamation suit solely as a supporter of Alvarado, since that was all that was relevant to signal his election-related purpose. (Ex. 239) He would also indicate falsely as discussed below that the defendant was a Local union office holder. (Ex. 239) Aloise did not disclose the actual claim in the suit. (Ex. 239) As an active participant and strategist for the Alvarado campaign, Aloise had her lawyers, including Pimentel and Absalom's opponent in this particular suit, draft this misleading attack on her opponent's presumed legal advisor to hinder the expression of free speech through the complaint. (Exs. 237, 239, 241, 242)

The literature Alvarado's supporter allegedly placed in the workplace accused Pimentel and a member of his slate that opposed Alvarado's ticket of being felons. (Ex. 240) As the court in that suit noted, it would have been a serious blow to their chances in the election if the candidates were believed to be felons if they were not. (Ex. 243 at 8) They sued asserting the allegations were false. (Ex. 240) In a June 23, 2014 "Order Regarding Defendant's Special Motion to Strike (SLAPP) and Request for Judicial Notice", the court stated, "The court similarly rejects Ramirez' argument that it is irrelevant that he asserted Salas' [Pimentel's slate member] conviction to have been a felony instead of a misdemeanor. The fact of a felony conviction, which can result in a state prison term, could reasonably effect a reasonable person's perception of another's character differently than the fact of a misdemeanor conviction." (Ex. 243 at 8) This statutorily protected suit by members who were not officers against a member who was not an officer could not have the broad chilling of member's rights to participate in a campaign as Aloise proclaimed on Joint Council letterhead. As the court noted in Hall v. Cole, supra, 412 U.S. at 8, the misuse of union

discipline created a chilling effect on LMRDA rights. A court proceeding, with its procedural safeguards, unlike a rigged union proceeding Aloise would hold at Joint Council 7, provided ample protection for the litigants. See, Salzhandler v. Caputo, supra, 316 F.2d at 450; Hall v. Cole, supra, 412 U.S. at 8.

The suit was not the same as the violative disciplinary action Aloise had initiated against a member in the 2011 International election that the Election Supervisor had condemned. In re Bales, (Ex. 290 at 6-7) Aloise's assertion that he as an officer believed Pimentel's suit was in bad faith which he used as a rallying call for concerted incumbent officer action to hamper LMRDA protected suits, had long been held improper. E.g., Operating Engineers v. Burroughs, supra, 417 F.2d at 373.

In addition to attempting to infringe upon Pimentel's right to sue, it is evident from the circumstances surrounding Aloise's actions that the letter was also an Aloise tactic to support Alvarado's election using union resources to impinge on Pimentel's free speech rights. These circumstances included, among others: the letter's timing the day before the nominations meeting; Aloise's statement to Rosenfeld who was reviewing the letter at issue that Absalom was assisting Alvarado's opponents whose election he would allow only over his dead body; Aloise's letter's intentional inaccuracies; that he identified the defendant only as an Alvarado supporter; Aloise's belief that an IBT officer should make false statements when strategically beneficial in elections; and Alvarado's campaign lawyer's review of the letter before it was sent. (Exs. 202, 201, 237, 239; Ex. 1 at 141-142) The political nature of this letter and Aloise's transparent ruse in cloaking it as an action of the Joint Council President was fully illuminated by his subsequent additional misuse of union resources to attempt to deprive Pimentel of his campaign manager, discussed below.

As his November 5 statement to Rosenfeld that he would allow Alvarado to lose only "over my dead body" evidenced, Aloise's letter distributed the same day on Joint Council letterhead was sent to obtain an advantage for his candidate and to punish as he had promised those who opposed her. (Exs. 201, 237, 239) The letter was Aloise demonstrating how far he would go to harm those like Pimentel who exercised their free speech rights to oppose his candidate in Local 601 and those who helped them like Absalom. (Exs. 200, 238) They would have to face the full consequences of his willingness to misuse union resources and his union offices. Aloise's claim in the letter that it was sent to stop the chilling of Local members from becoming involved in Local elections was baseless. (Ex. 239; Ex. 184 at 11-12, 29; Ex. 183 at 25-27)[119] Indeed, it was but another tactical lie that Aloise believed incumbents should use to retain power. (Ex. 1 at 141-142) Aloise had promised to make people suffer economically if they helped anyone opposed to his candidate. (Ex. 238) In issuing the letter, he improperly used both union resources, including Joint Council 7 stationary and postage, and Local and Joint Council personnel, and his powerful position for internal union political purposes.

In addition, Aloise also used Joint Council letterhead and Joint Council and Local employees to make a siren's call to rally incumbent Local officers to raise hurdles to shield themselves from members' LMRDA protected lawsuits and political opposition. (Exs. 237, 239)[120] Indeed, Aloise stressed in his Joint Council letter, "Unfortunately . . . this is not the first time that [the lawyer] has sued the duly elected representative of Teamsters Local Unions . . ."

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[119] The chilling effect the LMRDA was addressing was the misuse of union disciplinary procedures in rigged proceedings like Aloise conducted in Joint Council 7, see below, not in the court where appropriate procedures and neutral judges were available to both parties. See, Hall v. Cole, supra, 412 U.S. at 8.

[120] Since the suit's allegations involved alleged tortuous conduct committed during a campaign, there obviously was a political element underlying it. (Ex. 240) However, the plaintiffs' motivation, whatever Aloise alleged it to be, was not relevant to whether the suit was improper for a member to bring. Hall v. Cole, supra, 412 U.S. at 14 (Act anticipates protected suits will be brought by politically ambitious members).

(Ex. 239) Aloise in that sentence was duplicitously suggesting the Pimentel lawsuit in which Absalom was representing him was against an elected local official. To emphasize the threat to local officers, Aloise further wrote, "we certainly don't need the interference of attorneys who seem intent on working against the interest of the members and their elected representatives." (Ex. 239)[121] In falsely proclaiming Pimentel's suit was another one against an elected official, Aloise was advocating that the lawyer's representations of members in LMRDA protected suits against incumbents was a reason for punishment of this lawyer and indirectly Pimentel by the incumbents whom Aloise was addressing. In United Steelworkers v. Sadlowski, 457 U.S. 102, 119 (1982), the Supreme Court noted the member's LMRDA right to sue would be violated by union action, such as Aloise sought to occur here, that "prohibited union members from accepting financial or other support from nonmembers for the purpose of conducting campaign-related litigation." There could be no more central support to that litigation than from a lawyer. As the Supreme Court further observed in Hall v. Cole, supra, 412 U.S. at 13, quoting the Court of Appeals, "It is difficult for individual members of labor unions to stand up and fight those who are in charge. The latter have the treasury of the union at their command and the paid union counsel at their beck and call while the member is on his own." Aloise's instruction to incumbents to financially punish Absalom through denying him union work for the sole reason he provided assistance to a member was designed to hinder members' exercise of their right to sue and geometrically increase the incumbents' already great advantage. See, Hall v. Cole, supra, 412 U.S. at 12-14; Marshall v. Local 20, Teamsters, 101 L.R.R.M. 2195, 2197 (N.D. Ohio 1979) aff'd, 611 F.2d 645 (6th Cir. 1979) (". . . an incumbent always has the advantage in an election. . .")

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121 Deliberately left unexplained by Aloise in his letter was how a suit by one member against another member for allegedly making false statements damaging to the plaintiff's reputation "was working against the interest of the members and their elected representatives." (Ex. 239)

Aloise's claim that it was his practice in Joint Council 7 to advocate Locals punish lawyers who sued the Locals and incumbent officers fully evidenced it was his intent to chill members' protected right to sue. (Ex. 184 at 11-12) Hall v. Cole, supra, 412 U.S. at 8. Through his punish the lawyers tactic, Aloise was attempting to subvert a right of members indirectly that he could not attack directly in violation of the law and the IBT Constitution. Semancik v. United Mine Workers, supra, 466 F.2d at 153 (union cannot punish an individual for exercising LMRDA rights to go to court). Aloise's November 5 letter directed to the incumbent Local officers throughout the Joint Council was a naked appeal to their self-interest to hinder the members' exercise of their protected right to challenge officers' conduct in court by encouraging these officers to punish Absalom as an example to any union-side lawyer who would assist a member in his legally guaranteed right to sue the "duly elected representatives." (Ex. 239) Of course, Aloise was misleading the officers as to the nature of Pimentel's lawsuit in which Absalom was representing him. (Ex. 239) It was not a suit against a Teamster official, employee or Local. (Ex. 240) However, he needed to make the false statement to gain the advantage he sought in the Local 601 election so he did not hesitate to misrepresent the facts to fellow officers. The defendant was not an officer or employee in Local 601; he had been a member of Alvarado's slate. (Ex. 184 at 11-12; Ex. 280)

The November 5 letter also furthered Aloise's aim of advancing Alvarado's election through punishing her opponent through attempting to strip him of his lawyer to harm his campaign. (Ex. 239) Thus, Aloise was using union resources to support Alvarado's candidacy and to interfere with Pimentel's right to free speech. Through Aloise's use of Joint Council and Local resources he violated 29 U.S.C. §481(g); Donovan v. Metro. Dist. Council of Carpenters, 797 F.2d 140, 146 (3d Cir. 1986) (union document not designed to serve usual purpose but issued with intent to hinder opponent's candidacy violated 29 U.S.C. § 481 (g)).

Further showing his bad faith and political motive, Aloise could only bolster his allegation against Absalom by instructing local officers to check with the Beeson firm and Rosenfeld, another lawyer, concerning Absalom. The Beeson firm was cripplingly partisan and conflicted. It was involved in the Local 601 election on behalf of Alvarado and in opposition to Pimentel. (Exs. 239, 236) It represented the Alvarado supporter in the defamation suit that Pimentel filed that was the alleged basis for Aloise's November 5 letter. (Ex. 239, 242) Under Aloise's control, Joint Council 7 and Local 853 combined paid that firm $1,144,389 in 2013 and $1,209,859 in 2012. (Exs. 64, 234, 281-282)[122] The firm also did work for funds for which Aloise was the Chairman and Trustee. (Ex. 1 at 4-5; Exs. 19, 245-246) In 2012 and 2013, it was paid $255,754 and $243,210 respectively, for work for the Teamsters Benefit Trust. (Exs. 19, 245) That was only one of Aloise's funds that generated work for the firm. (Exs. 23, 246; Ex. 1 at 4-5, 9-10) The Western Conference Trust on which Aloise was a Trustee paid the firm $105,230 in 2012 and $55,948 in 2013. (Ex. 1 at 4-5; Exs. 122 and 246) In addition, Local 601 under Alvarado in 2012 and 2013 paid the firm $82,785 and $76,819 respectively. (Exs. 279-280) As discussed below, the Beeson firm was deeply involved with Aloise and Alvarado throughout the 2013 Local 601 campaign in the strategy of undercutting Alvarado's opponents as one of its partner's encouragement to Aloise to illegally use Teamster political resources to cause Pimentel's campaign manager to quit boldly underscored. (Ex. 236)[123]

The other lawyer that Aloise referred to in the letter to support his allegations, Rosenfeld, also represented Local 853. (Exs. 234, 64) He was also a defendant's lawyer in a lawsuit Absalom filed on behalf of former Local employees against a Local and a Fund alleging a claim of improper

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[122] In 2013, the firm was paid $954,798 from the Joint Council and $189,591 from Local 853. (Exs. 234, 282) In 2012, the firm was paid $898,557 from Joint Council 7 and $311,302 from the Local. (Exs. 64, 282)

[123] The Beeson firm asserted they represented almost all IBT Locals in Northern California. (Ex. 242) Obviously, their incumbent officer clients would not be receptive to suits against those in office.

termination of contributions the Local had previously made to the Local fund for their health insurance. (Ex. 283, 284) In that suit, Rosenfeld represented the Local and the Beeson firm represented the Fund. (Ex. 284) Rosenfeld also was Aloise's confidant about his belief Absalom was assisting Alvarado's opponents and Aloise's commitment to the death to prevent her defeat. (Ex. 201)

When his letter on Joint Council letterhead advising the Local officers not to use Absalom was mailed, Aloise was, as Alvarado noted, "the most powerful man in the Teamsters in California." (Ex. 248; Ex. 1 at 138-139) Previously having discussed with Aloise Absalom's perceived support of her opponents, Alvarado recognized the letter as a campaign document. She quickly and enthusiastically congratulated Aloise for sending it. (Exs. 233, 247, 249, 239) She wrote Aloise on November 7, 2013, "I received your letter regarding Absalom. It is a powerful letter that I am sure will do what it intends. You are the best Union Leader ever!" (Ex. 249)[124]

b. Aloise Attempted to Hinder Pimentel's Campaign by Attempting to Put Pressure on Pimentel's Purported Campaign Manager to Quit Through the Misuse of Union Resources

Having attacked Alvarado's opponent's attorney through an abuse of Joint Council and Local resources, Aloise then used other Teamster resources in an attempt to further damage Pimentel's campaign by trying to put pressure on Pimentel's presumed campaign manager to quit. (Ex. 236) Ballots were to be mailed to Local 601 members on November 18, 2013. (Exs 252, 253) On November 12, Bonsall, Alvarado's lawyer at the Beeson firm, sent Aloise at his Teamster address an email entitled "Campaign Manager for Pimentel." (Ex. 236) There was no other addressee on the communication. (Ex. 236)[125] The email's title and substance established that it

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124 The Joint Council letter was mailed to the locals. (Exs. 251, 239, 249, 250; Ex. 1 at 138-141)

125 Alvarado was not copied on this; Bonsall was reporting solely to Aloise. (Ex. 236) There was an attachment which was Joseph Romero's LinkedIn page. (Ex. 236)

was in connection with Alvarado's campaign. (Ex. 236) In it, Bonsall discussed Joseph Romero ("Romero"), a non-Teamster, whom Bonsall believed was Pimentel's campaign manager. (Ex. 236) Bonsall outlined strategies for Aloise to interfere with Pimentel's ability to campaign through causing Romero to be unavailable to assist Pimental. (Ex. 236) Bonsall suggested to Aloise he might consider making a complaint to the Department of Labor ("DOL") against Romero as an employer providing free services to Pimentel's campaign. (Ex. 236) However, he recommended Aloise to save that tactic for later in case Alvarado lost the election and needed a way to overturn it. (Ex. 236) Instead, since Bonsall believed Romero worked for either a Congressman or a state senator, Bonsall advised Aloise to violate 29 USC §481(g) by using Teamster political influence sustained through union resources to damage Pimentel's campaign and support Alvarado. (Ex. 236) Bonsall suggested Aloise have a Teamster lobbyist contact the senator and the congressman's chief of staff to make known to them Aloise's personal "displeasure" that, contrary to Aloise's wishes, one of their employees was assisting a candidate in a local union election in Aloise's jurisdiction. (Ex. 236) Bonsall was hopeful that under the Teamster political pressure, the elected official employing Romero would force Romero to quit assisting Pimentel and to reveal to Alvarado confidences of the Pimentel campaign. (Ex. 236) Despite receiving Bonsall's email addressed solely to him with its advice, Aloise could not explain how Bonsall was being paid for his services for providing Aloise this information and advice. (Ex.1 at 145) If free, it was an illegal campaign donation from an employer, an issue Bonsall discussed in the email to Aloise and hoped to pin on Pimentel. (Ex. 236) If paid by any Teamster entity, it was embezzlement as it was not an expenditure for a union purpose. If it was paid by Alvarado's campaign, it was further proof that it was a political action to support a candidate through the use of union resources that Bonsall advised Aloise to use illegally to assist Alvarado.

Using the union email system, Aloise then forwarded Bonsall's email related to Alvarado's campaign in Local 601 to the Joint Council political director, Douglas Bloch ("Bloch") at his union email address, and to the statewide Teamster lobbyist, Barry Broad ("Broad"), at his law firm. (Ex. 236) Broad was the legislative representative of the California Teamsters Public Affairs Council ("CTPAC"), which lobbied for the Teamsters in the state. (Ex. 254) The CTPAC was funded by a per capita tax paid out of members' money through the two California Joint Councils. (Ex. 255) Aloise, as Bonsall recommended, called upon the two Teamster political agents to proceed to illegally use Teamster resources for Alvarado's campaign to pressure the politicians regarding Romero, the perceived Pimentel campaign manager. Aloise wrote:

> Can you guys check this out and if he is in fact working for these people, I want them to have an earful and let them know that this will be a problem for them now and in the future. Let me know what you find out. He is doing the work for the person running against Ashley Alvarado.

(Ex. 236)[126]

Aloise, their boss, gave them instructions on what they were to do for his candidate in the Local election.[127] Aloise's intent was to interfere with Pimentel's free speech right through making it more difficult for him to mount an effective campaign by eliminating his manager "if he is in fact working for these people". (Ex. 236) He stressed to the union operatives that Romero "is

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126 Aloise's defense appears to claim he ignored Bonsall's advice, whom he had been including on Alvarado campaign material he sent, as to the help this would provide Alvarado's campaign. Instead, Aloise's concern was that a government office holder's staffer supported a candidate Aloise did not approve of and that disagreement with his preference was somehow a betrayal of the IBT endorsement of these politicians. (Ex. 184 at 11) The contemporaneous documents show Aloise's concern was straightforwardly political and was a cover to hurt Alvarado's opponents. (Ex. 236, 261, 263) It was to use, as was his pattern, union clout to achieve a personally desired result, to hurt Pimentel in order to assist Alvarado.

127 Aloise testified Broad was an employee of the CTPAC of which Aloise was co-chairman. (Ex. 1 at 68, 70) According to the Joint Council 7 newsletter, Aloise was Broad's supervisor. (Ex. 255)

doing the work for the person running against Ashley Alvarado." (Ex. 236) He improperly used union resources to harm Pimental's campaign and to promote Alvarado's candidacy. There was nothing mentioned in his communication or those of the Teamster employees Aloise was instructing about his current professed concern about outside influence in the Local election process. (Ex. 236; Ex. 184 at 11)

Underscoring the importance to Aloise of his efforts to harm Alvarado's opponent, Aloise, himself, called the Congressman to inquire if Romero worked for him. (Ex. 1 at 148-149; Ex. 261; Ex. 184 at 11) The Congressman reported Romero had been a volunteer and now worked for the state senator. (Exs. 261, 265) After reporting this to the Joint Council employee and the Teamster lobbyist, Aloise asked one to contact the state senator. (Ex. 261) The Joint Council employee, observing that the senator was not a friend of labor, volunteered the lobbyist, who agreed to do it. (Exs. 261, 256) Aloise then advised the lobbyist to threaten the state senator that if she did not act to stop Romero from assisting Pimentel she could be caught up in a DOL investigation. (Ex. 263) He also advised the lobbyist on how to describe Alvarado's opponents in Local 601 to the senator. He coached Broad to portray Aloise as protecting the incumbent from those who represented the ". . . white boy group that can't stand what is going on. . .." (Ex. 263) This was not consistent with his current assertion that he was speaking as an IBT statesman to inform union endorsed public office holders that their staff was, in his view, improperly interfering in an IBT Local election, a concern he would have had regardless of which side they were assisting. (Ex. 184 at 11; Ex. 183 at 21) Underscoring that Aloise's use of a union resource, the Teamsters political influence, was unrelated to a valid union purpose, Aloise emphasized that Broad should stress to

the senator that this was a matter of personal importance to Aloise. (Exs. 261, 263-264)[128] Aloise, as he had been found to do in the past, again was improperly using Teamster resources, including its political influence and employees, to support a candidate in a union election in violation of federal law. In re: Fred Gegare, Election Appeals Master Decision, 11 Elec. App. 3 (February 16, 2011) (Ex. 159) relying on fact finding in In re: Fred Gegare (after remand), 2011 ESD 73 (January 20, 2011 (Ex. 324); In re: Certain Campaign Contributions by Officers and Employees of Local Union 853, 2006 ESD 341 (August 23, 2006) (Ex. 286).

Broad contacted the senator and reported back to Aloise. (Ex. 1 at 148-149; Exs. 263-264) According to Aloise, Broad reported that she said Romero was not working for her at the time. (Ex. 183 at 22; Ex. 184 at 11)

c. Aloise Interfered with Members' Rights to Fair Hearings Under the LMRDA and in Violation of the IBT Constitution

i. October 2013 Hearing on Disciplinary Charges Against Alvarado

In violation of the IBT Constitution and of Pimentel's LMRDA rights to a fair hearing, Aloise appointed the members to a hearing panel which heard charges Pimentel filed against Alvarado in October 2013. (Ex. 33 at 136; Exs. 260, 278) The panel Aloise appointed included Rosas, then the Secretary-Treasurer of Local 439 and a Joint Council officer, whom Aloise had been using to support Alvarado in her campaign against Pimentel. (Ex. 33 at 136; Ex. 260; Ex. 278 at 2) In addition, despite his extensive involvement in Alvarado's campaign, Aloise

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128 As seen in the discussion of his requests to employers and vendors, supra, Aloise had a pattern of requesting personal favors from employers and vendors when his union power to have the union act to their benefit or against them was a background threat or enticement. Aloise requested employers SWS and Gillig to hire his cousin. (Exs. 98, 126) He requested SWS to provide tickets to a Super Bowl party. (Exs. 78, 88) He asked employers UPS and Costco to hire his stepson. (Exs. 140, 150) He told Lanini and Clizbe that they owed him after he fought to get Clizbe's employer work for the TBT. (Ex. 163) These requests for assistance were always personal and not about the union.

participated and voted to affirm the panel's decision. (Exs. 267, 268, 278) By his actions, he violated Pimentel's right to a fair hearing under the LMRDA and violated the IBT Constitution.

Rosas, then head of Local 439 and a Trustee on the Joint Council, was a supporter of Alvarado's campaign with Aloise. (Exs. 311, 314, 206, 207) By October, he had been involved with Aloise since at least August in assisting Alvarado's campaign. (Ex. 314) Summarizing their mutual commitment, Aloise sent an email to Rosas on August 20, 2013, which contained an attachment showing that Alvarado was to be honored as a labor leader at an event in February 2014. (Ex. 314) Aloise wrote, "Guess we better make sure she wins, or this could be embarrassing for her. . . " (Ex. 314)[129] Earlier, on August 15, 2013, after Alvarado sent Aloise and Bonsall an opposing slate's campaign poster, Aloise responded, using "we" to address the campaign team, including Rosas in his reply, "we need to now counter with a BEWARE LUCIO REYES WANTS TO COME BACK flyer." (Ex. 311)[130] As described above, the following day, August 16, 2013, Aloise sent an email to Rosas, Alvarado, Barrera and Bonsall which attached a flyer he created attacking Reyes. (Ex. 207)[131] Rosas and Aloise were part of Alvarado's campaign team.

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129 Aloise, Rosas and Alvarado were political allies. In 2010, when Alvarado was running in a delegates election for the IBT Convention, Rosas violated 29 U.S.C. §481(g) to improperly use his Local's resources to support her campaign. (Ex. 288) In the same campaign, Aloise's campaign for IBT office provided Alvarado assistance that was not violative. (Ex. 288 at 7) Alvarado herself in the same matter was found to have violated the rule against using union resources and lied to the Election Supervisor. (Ex. 288 at 9-11) Subsequently, Rosas entered into an agreement in 2015 to resolve IRB-recommended charges involving extensive financial misconduct in this Local. (Ex. 342) He was suspended from office and employment with any IBT entity for 10 years or until restitution of $35,092 was paid and was suspended from membership for 5 years or until the restitution was paid. (Ex. 342)

130 Two days earlier, on August 13, 2013, Aloise, Rosas and Alvarado met. (Ex. 310)

131 Rosas' support for Alvarado in 2013 was consistent with his illegal activity to support her in 2010 in connection with the IBT Convention delegates election in Local 601. (Ex. 288) In connection with that election, the Election Supervisor found that Rosas had used union resources to aid Alvarado's campaign. (Ex. 288 at 7-8) Rosas was also found to have assisted Alvarado's campaign by allowing her to use the Local 439 union hall without charge. (Ex. 288 at 7-8) Alvarado, who lied in the proceeding, was disqualified from being a delegate to the IBT Convention. (Ex. 288 at 9-10)

Pimentel filed a charge against Alvarado in June 2013. (Ex. 258) He withdrew this and then refiled on September 16, 2013. (Exs. 259, 315)[132] After Pimentel's charge was emailed to Aloise on September 16, 2013, Aloise forwarded it to Rosas instructing secrecy, "Keep this to yourself, but let's talk about it." (Ex. 313) Pursuant to Article VI, Section 2 of the Joint Council 7 Bylaws, as the Joint Council principal officer, Aloise selected the panel that would hear this charge against Alvarado. (Ex. 270 at 6) On September 18, Aloise asked a Joint Council 7 employee whom he had initially appointed to the panel to hear the charge in June. (Ex. 260) She informed him they were, "Carlos, Dave and Vic." (Ex. 260)[133] Subsequently, changes to the hearing panel were made. Aloise appointed Rosas, whom he knew to be an active Alvarado supporter, to replace Carlos Borba on the panel. (Exs. 287, 260, 278)

Under both the law and the IBT Constitution, because Rosas was a committed supporter of Alvarado's campaign, Aloise should not have appointed him to the hearing panel to hear a charge against her that her opponent filed. Rosas was an involved officer under the IBT Constitution, and ineligible to sit as Aloise knew. (Exs. 33, 290) Aloise's appointment of him to the panel hearing the charge against Alvarado that Pimentel filed violated the IBT Constitution.[134] It was also another of Aloise's attempts to deprive Pimentel of his LMRDA rights. Here, the fair hearing

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132 The charge alleged that Alvarado had improperly given salary and benefit increases to the Local 601 staff without membership approval. (Ex. 259)

133 "Carlos" was Joint Council officer Carlos Borba. (Exs. 287, 268)

134 Article XIX, Section 1(a) of the IBT Constitution stated in pertinent part:

> In no event shall any involved officer or member serve on a hearing panel, participate in the selection of a substitute member of a hearing panel, or participate in the decision making process of the trial body. This prohibition shall apply to any proceeding conducted under Article XIX or any other Article of this Constitution.

(Ex. 33) In re Roger Bales, Protest Dec. 2011 ESD 256 at 5 (Ex. 290 at 5)

he was entitled to under 29 U.S.C. §411(a)(5).[135] Knight v. Int'l Longshoremen's Association, 457 F.3d 331, 342 (3d Cir. 2006); Goodman v. Laborers Int'l Union of North America, 742 F.2d 780, 787 (3d Cir. 1984); Semancik v. United Mine Workers, supra, 466 F.2d at 157.[136] In putting Rosas on the panel, Aloise brought reproach upon the IBT.

Rosas and the other two members of the Joint Council panel held a hearing on Pimentel's charge on October 8, 2013. (Ex. 278) The panel reached its decision on October 11. (Ex. 267) That day, Aloise, as a member of the Joint Council Executive Board, approved the panel's opinion finding Alvarado had not committed the claimed offense. (Ex. 267; Ex. 268 at 8) Under the IBT Constitution and the LMRDA, Aloise who because of his bias could not be impartial should not have participated either in selecting the panel or approving its decision. (Ex. 33) Under both the IBT Constitution and the law, since Aloise had expressed his unwavering allegiance to Alvarado and opposition to Pimentel, his participation was an attempt to deny Pimentel a fair hearing before impartial decision makers guaranteed under the LMRDA. Semancik v. United Mine Workers, supra, 466 F.2d at 157 ("A tribunal of the political opponents of those on trial offends our most basic notions of fairness"); In re Roger Bales, Protest Dec. 2011 ESD 256 (Ex. 290 at 4-5)[137] Again, Aloise brought reproach upon the IBT.

ii. Aloise and Rosas Improperly Participated in the Joint Council Election Protest Decision

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135 As such, this retaliation against Pimentel for exercising his legal rights violated Article XIX, Section 7(b)(10) of the IBT Constitution.

136 Rosas' involvement with Alvarado's 2013 campaign continued after he served on the hearing panel. (Exs. 209, 210, 212-214)

137 Aloise had already stated, "Let me make it clear anyone who runs against Ashley is running against me and I will treat them accordingly from now on and forever." (Ex. 200)

Aloise also violated the law and the IBT Constitution when he sat in judgment on Alvarado's opponents' post-election protests when his inability to be impartial was beyond dispute. (Exs. 316-320) Before voting on the election protests at the Joint Council pursuant to Article XXII, Section 5(b) of the IBT Constitution, Aloise, among other things, had contributed financially to Alvarado's campaign, had engaged in attacks on her opponents' campaigns using union resources, had described running against her as running against himself promising the same treatment to her opponents as to his, and vowed he would only allow her defeat over his "dead body". (Exs. 139, 200, 201; Ex. 1 at 16-17; Ex. 33 at 171)[138] Despite his inability to be impartial and his knowledge of the Election Supervisor's previous finding, in which he was involved, that under the IBT Constitution if an officer was not impartial he was prohibited from judging a matter, Aloise participated in the Joint Council's consideration of the protests in violation of the law and the Constitutional prohibition. (Exs. 318-319) In doing so, Aloise also violated Pimentel's and Reyes' LMRDA fair hearing rights, 29 U.S.C. §411(a)(5); IBT Constitution, Article XIX, Section 7(b)(10).

On December 9 and 11, 2013, the Pimentel and Reyes slates filed protests concerning the Local 601 election with the Joint Council. (Exs. 316, 317) On February 13, 2014, these protests were heard by a panel Aloise appointed pursuant to the Joint Council Bylaws. (Ex. 270 at 6; Ex. 330) He did not refrain as he was supposed to do from appointing the panel members. On June 4, 2014, the hearing panel issued a decision finding the election protests without merit. (Ex. 319) On that day, the Joint Council Executive Board with both Aloise and Rosas participating affirmed the panel decision. (Ex. 318) Aloise, a fiduciary, breached his duty when he allowed Rosas to sit on the protests when it was fully known to Aloise that Rosas was involved in the matter under the

[138] Article XIX § 1(a) of the IBT Constitution also applies to panels deciding election appeals. (Ex. 33)

IBT Constitution. See, United States v. IBT [Carey], supra, 247 F.3d at 381-84; United States v. IBT [Sansone], 981 F.2d 1362, 1370 (2d Cir. 1992) (Teamster official obligated to stop known wrongdoing of other officer). Aloise knowingly violated it himself in staying involved despite his inability to be fair.

Aloise in his pre-charge submission to the IRB claimed that Reyes and Pimentel were required to move to recuse him. (Ex. 183 at 29) Neither the LMRDA nor the IBT Constitution require such a motion. The IBT Constitution imposed an affirmative duty on an involved officer not to sit on hearings in which he was involved. (Ex. 33) Moreover, members can not waive LMRDA protected rights. Int'l Brotherhood of Boilermakers v. Rafferty, 348 F.2d 307, 314 (9th Cir. 1965). Under the LMRDA, Aloise and Rosas should not have been involved in considering the post-election petitions. See, Goodman v. Laborers Int'l, supra, 742 F.2d at 784 (officer under constitution had an affirmative obligation not to sit on a matter where he could not be impartial and violated LMRDA). The Bales matter put Aloise fully on notice such conduct was not permissible under the IBT Constitution. (Ex. 290) Moreover Aloise concealed his prejudgment against Alvardo's opponents. Indeed, in yet another tactical lie, earlier Aloise affirmatively dismissed in a letter to Pimentel any suggestion that he was not impartial in matters involving Pimentel and Alvarado. (Exs. 271-272) There could be no knowing waiver until Aloise dropped the disguise and revealed the depth of his commitment to not permit any candidate to defeat Alvarado.

In his declaration to the IRB, Aloise admitted his strong support for Alvarado. (Ex. 184 at 10) Indeed, Aloise misused International letterhead to assist Alvarado. (Exs. 349-351) Aloise at her campaign manager's solicitation wrote a letter in October 2013 on IBT letterhead signed as International Vice President praising her and stating,

> Unfortunately, the leadership at Local 601 prior to you let many companies run away from the Union contracts and allowed many workers to be exploited and abused by the bosses. You have dedicated yourself and the Local to putting an end to these abuses, and also to help those workers who need the Union in their workplace. This takes real leadership, which you have exhibited since you were overwhelmingly elected by the membership of Local 601. I look forward to working with you and your staff in the future to bring success to our program, which without your help and dedication, would not be in existence now

(Exs. 349-351) On October 17, 2013, Aloise wrote this letter on International letterhead solely in response to her campaign manager's request. (Exs. 349-351) Under the IBT Code of Conduct, Aloise could not have taken such a step other than in his personal capacity. (Ex. 192 at 14-15) He once again was misusing union resources to support a candidate. Instead, he maintained his ruse of impartiality so he could misuse union resources to support his candidate. It was another of his tactical falsehoods.

4. Aloise, as Part of His Pervasive Pattern of Election Related Misconduct, Brought Reproach Upon the IBT and Breached His Fiduciary Duties When He Failed to Act to End Alvarado's Known Defiance of the General Secretary-Treasurer's Instructions

Alvarado for over two years ignored instructions she received as part of an IBT audit of Local 601. (Exs. 306, 294, 295, 296, 297, 298) When put on notice of it, Aloise ignored Alvarado's long delinquency in her responsibilities to resolve a financial issue of consequence to her Local that she had been instructed to address by the IBT's General Secretary-Treasurer's office over two years before. (Ex. 299) Aloise, as an International Vice President and Joint Council President, did not encourage her compliance with the auditor's instructions even though the financial condition of Local 601 had been deteriorating for several years. (Exs. 299, 363, 279, 280, 362) He again violated his fiduciary duties under 29 U.S.C. § 501(a). E.g. United States v. IBT [Carey], supra, 247 F.3d at 381-84 (high ranking official cannot ignore evidence of other

employees' breaches of fiduciary duty); United States v. IBT [Sansone], supra, 981 F.2d at 1370 (same); United States v. IBT [Hahs], 652 F.Supp.2d 447, 452 (S.D.N.Y. 2009) ("IBT officers cannot avoid responsibility "by shutting their eyes to allegations" that their fellow IBT members engage in corrupt or improper activity." (citing United States v. IBT [Coli], 803 F.Supp. 748, 755 (S.D.N.Y. 1992)); Cf. IBT Code of Conduct at 16-17 (each IBT officer responsible for IBT employees' conduct) (Ex. 192 at 16-17)

In 2011, an IBT auditor examined Local 601 for the period from November 1, 2008 through December 31, 2010. (Ex. 306) At the time of the audit's initiation, Alvarado was the principal officer. She had not been the principal officer for the period that was audited. (Ex. 306 at Sch. E-3) In connection with the 2011 audit, the auditor, Joseph Polo ("Polo"), determined the Local's sabbatical leave policy was "convoluted and expensive". (Ex. 306 at Sch. C-6) Polo gave Alvarado and the other Board members specific instructions to review the policy and to adopt one that matched the members' contract with an employer on which the Local's sabbatical policy for officers and employees was allegedly based. (Ex. 306) They also needed to determine under the IBT Constitution if the policy were economically sustainable. (Ex. 306; Ex. 33 at 43) The auditor also gave the Local Executive Board instructions, among other things, to disclose accrued sabbatical and unused vacation leave as a liability on the Trustees Reports filed with the IBT. (Ex. 306 at Audit Sch. D-1)

Alvarado took no action in response to the auditor's instructions.[139] After five months of her inaction, General Secretary-Treasurer Keegel inquired of Alvarado by letter dated October 24, 2011, what actions had been taken with respect to the issues the auditor raised with her, including

[139] Between 2011 and 2013, she was the principal officer in the Local. (Exs. 355, 279, 280) During those years, the Local's net assets decreased by almost 60%. (Exs. 363, 279, 280, 362) In addition, in each of those years, the Local's total disbursements were greater than its total receipts. (Exs. 363, 279, 280, 362) For example, in 2013, the Local spent $246,311 more than its total receipts. (Exs. 363, 280)

revising the sabbatical policy and correcting the failure to disclose on the Trustees Reports the accrued unused vacation and sabbatical leave owed as an obligation of the Local. (Ex. 294) She ignored that request. Eleven weeks later, on January 9, 2012, Keegel noted to Alvarado that the IBT had not received a response to his letter of October 24, and requested her response to the issues raised in the audit. (Ex. 295) On January 24, 2012, Alvarado replied. (Ex. 296) She represented the Local was reviewing its sabbatical leave policy and that the review should be completed within 60 days. (Ex. 296) She also represented that as of January 2012, the Trustees Reports would reflect the accrued leave liability. (Ex. 296) Both were misrepresentations. The Local remained delinquent as to both. (Exs. 297, 325, 326) She continued to ignore her responsibilities. Misleading responses from her to the General Secretary-Treasurer became a tool she would use again.

Over 13 months later, well after the 60 days that she had represented she needed to review the sabbatical policy had expired, General Secretary-Treasurer Hall on March 1, 2013, wrote Alvarado asking why the Local had not complied with the instruction on sabbatical leave policy and why, despite her assertion in the previous letter that it would be done, the Local was still not reporting the accrued leave obligation on Trustees Reports. (Ex. 297) She ignored the General Secretary-Treasurer and her responsibilities. As a result, on May 1, two months later, Hall reminded Alvarado he had not received a response to his earlier letter and requested one. (Ex. 298)

Almost two months after that, on June 24, 2013, the Local's lawyer, Bonsall, sent Alvarado an email reminding her of the need to respond to Hall's letter of May 1 inquiring about her failure to respond to his March 1, 2013 letter. (Ex. 299) Bonsall advised her that the Local's sabbatical policy as then in place was not sustainable. (Ex. 299) As he was also her political advisor, Bonsall

recognized that "getting rid of the sabbatical leave entirely makes sense, but creates a political problem this year." (Ex. 299) One suggestion he had was to continue to stall. He advised her "to do nothing this year (until after your election) and take action early next year." (Ex. 299) In essence she could, as she had for the eighteen months before, continue to ignore the General Secretary-Treasurer by falsely representing the Local was working on it despite now over two years having passed since the auditor had raised it with her. The liability for sabbatical leave would continue to accrue during the period she stalled. Bonsall also suggested she consult Aloise. (Ex. 299)

That same day Alvarado forwarded Bonsall's email to her advising further delaying her response to Aloise. (Ex. 299) She sought Aloise's intervention with the General Secretary-Treasurer. (Ex. 299) She stated, two years after being told of the need to take action, and after four separate reminders from two General Secretary-Treasurers,"I cannot make any changes to the Sabbatical leave right now because . . . it could be a political issue with my EB, and in general. Could you talk to General President Hall [sic] and see if he could give me more time until January of next year so that I don't have to deal with the political risk?" (Exs. 299, 294, 295, 297, 298) She had no explanation of her two years of committed inaction. Despite this, Aloise ignored his fiduciary duties as President of the Joint Council and an International Vice President to make a factual inquiry as to the reason for Alvarado's defiant delinquency or to act to stop it. United States v. IBT [Sansone], supra, 981 F.2d at 1370; United States v. IBT [Carey], supra, 247 F.3d at 381-84; United States v. IBT [Coli], supra, 803 F.Supp. at 755. Instead, he agreed to intercede with General Secretary-Treasurer Hall to press her request to allow her to continue to be delinquent on the required action until the end of her term in office because of her personal political reasons. (Ex. 299) In response to Alvarado's June 24, 2013 request, Aloise stated, "I will do it." (Ex. 299)

On July 2, 2013, Bonsall re-sent his June 24, 2013 email to Alvarado regarding the IBT General Secretary-Treasurer's March 1 and May 1 letters. (Ex. 307) Alvarado forwarded Bonsall's email to Aloise that day stating, "I wanted to ask if you have had an opportunity to talk to GST Hall, regarding giving me some time to make the changes regarding Sabbatical after the election as I feel this may be an issue for a couple of people on my board." (Ex. 307)[140] The week after receiving this email, Aloise was in Washington DC. (Ex. 308) On July 9, 2013, Aloise met with Hall. (Ex. 309)

After not answering for over six months Hall's March 1, 2013 letter, Alvarado on September 5, 2013 responded to General Secretary-Treasurer Hall. (Ex. 302) She claimed that as of September the Local had finally begun reflecting the accrued vacation and sabbatical leave in the Local's books and records and on Trustees Reports as an outstanding liability, two and a quarter years after the Local was first formally instructed to do this simple but necessary process. (Ex. 302) However, after two and a quarter years of inaction, and a previous similar claim that proved empty, Alvarado represented in that letter, as she had done in January 2012, "the Local union is reviewing and continues to evaluate its current sabbatical leave policy.... The Local Union is hopeful of completing this process and implementing a revised sabbatical leave plan by January 1, 2014." (Exs. 302, 296) This, her second "blow off", with its obvious post-election conclusion, allowed her, with the General Secretary-Treasurer's acquiescence, to proceed to complete her term in office, passing the election date, before taking any action regarding this continuously accruing obligation from a policy that was not sustainable in a financially deteriorating Local. (Exs. 302,

[140] Alvarado believed not only was Aloise the most powerful Teamster in California but that national IBT employees would do whatever he asked because they were afraid of the consequences of not complying with any of his requests. (Ex. 248)

363, 362, 279, 280)[141] The General Secretary-Treasurer made no response to Alvarado's ridiculous and blatantly false claim that yet more time was needed to do what his auditor had instructed her was required to be done two years and three months earlier. Another audit of Local 601 was scheduled in 2015. (Ex. 303) To no responsible union official's surprise, given her past conduct and prior false representations, the audit found Alvarado had not addressed the sabbatical policy as she promised for the second time would be done in her September 2013 letter. (Exs. 294-298, 302, 303, 304, 305)[142] This was now four years after she was told to do so. (Exs. 294, 303)

Although aware of the issue of her delinquency at least as of June 2013, Aloise, as head of the Joint Council and an International Vice President, took no steps to cause Alvarado to comply with her obligations. (Ex. 299) Because it would be politically damaging for Alvarado, Aloise failed to exercise his fiduciary duty to the members to ensure Alvarado complied with her obligations to comply with the IBT auditor's instructions. It would be over four years from her first instructions that Alvarado would claim the matter would be addressed effective December 31, 2015. (Exs. 294, 305)

5. Aloise's Previous International Election Misconduct

The IBT Code of Conduct applicable to an International Vice President such as Aloise explicitly memorialized what Aloise knew IBT policy, let alone the law, to be. Under that policy, Aloise, as an International Vice President, could only support Alvarado in her re-election campaign

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[141] During the years 2011 through 2013, in each year, the Local's total disbursements exceeded its total receipts. (Exs. 363, 279, 280, 362) For example, in 2013, the Local spent $246,311 more than its total receipts. (Exs. 363, 280)

[142] A second audit was done covering the period from January 1, 2011 through May 31, 2015. (Ex. 303) At the time of the 2015 audit, Alvarado still had not done what had been requested. (Ex. 303-304) There had been no inquiry concerning her non-compliance or follow-up on her September 2013 representations. Indeed after the second audit, it took the General Secretary-Treasurer's office two more requests, one on September 25, 2015, which she ignored and the other on November 2, 2015, to get a response from Alvarado on the sabbatical policy. (Exs. 303-304) On November 13, 2015, Alvarado sent a letter to General Secretary-Treasurer Hall in which she stated that one employee had been directed to take accrued leave instead of cashing it in and that the Local's sabbatical policy would be eliminated effective December 31, 2015. (Ex. 305)

in a personal capacity, not as a union officer. His almost continuous use of union resources to assist Alvarado, including the power of his office, was completely forbidden. 29 C.F.R. 452.76.

In his defense to allegations of election related misconduct, Aloise stated the obvious and asserted he had a right to campaign for Alvarado. (Ex. 184 at 10, ¶31) The law provided him that right. 29 C.F.R. §452.76. It did not confer the right to use union resources and power to achieve an internal union political goal. Aloise seems to assume his personal belief in the necessity for Alvarado to remain in office excused his illegal use of union resources and power to support her, undercut her opponents, attack members' LMRDA protected rights and breach his fiduciary duties. (Ex. 184 at 10, ¶¶30-31) That, as he well knew from both the previous times he was caught in similar misconduct and his decades as a union official, was not justification for his improper actions.

The 2013 Local 601 campaign was not the first time Aloise used union resources improperly in a Teamster campaign or violated a member's LMRDA rights. In re: Gegare (Ex. 159); In: re Bales (Ex. 290); Certain Campaign Contributions (Ex. 286) Aloise's misconduct in the 2013 Local 601 election followed his previously established pattern of violating for political advantage rules meant to secure fair elections.

Aloise had been the subject of at least two successful International election protests when he was caught using union resources to promote a candidate. In re: Fred Gegare, Election Appeals Master Decision, 11 Elec. App 3 (Feb. 16, 2011) (finding Aloise's offering a union job for campaign support, even if job rejected, was a use of union resources for campaign) (Ex. 159; Ex. 324 at 3); Certain Campaign Contributions By Officers and Employees of Local Union 853, 2000 ESD 341 (Aug. 23, 2006) (Aloise and other Local 853 officers improperly awarded themselves an extra week vacation not to be used but as part of a scheme to transfer Local money into a local

officer campaign account used to make contributions to the Hoffa campaign; Aloise then lied to the Election Supervisor about that scheme.) (Ex. 286 at 4-6, 19-20)

In addition, showing his total knowledge of the prohibition, Aloise also filed protests against opponents that claimed their improper use of union resources for political purposes. (Ex. 293 at 6) One protest he filed involved Local 601. Rome Aloise, 2010 ESD 22 (August 27, 2010) (Ex. 293) Alvarado and her political allies prompted Aloise to file a protest against Lucio Reyes, the Local's then principal officer. (Ex. 293) The protest accused Reyes of using Local personnel and equipment to improperly assist his campaign for International Vice President. (Ex. 293 at 2-3) Aloise challenged misuse of union resources including the use of the Local's telephone equipment and fax machines. (Ex. 293 at 6, 9-10)

In the 2013 Local 601 election, Aloise improperly used Local 853 equipment and facilities to create campaign flyers. (Ex. 212, 213) He used its email system to send and to receive a stream of campaign messages. (Exs. 208, 211-217, 221, 223-231, 250) He used his union paid-for cell phone in connection with campaign activities. (Ex. 183 at 17; Ex. 184 at 11) He used Joint Council 7 personnel, stationery and postage to send his November 5th letter attempting to harm Pimentel in his campaign through attacking his presumed lawyer. (Ex. 239) Aloise used union employees and Teamster political clout sustained through members' dues in an attempt to force Pimentel's campaign manager to quit. (Exs. 236, 256, 263, 265) He used Joint Council letterhead and resources in an attempt to interfere with Pimentel's free speech rights through threatening to charge a violation of a bogus rule if Pimentel or anyone else used a picture of Alvarado from the hearing. (Exs. 257, 269, 272) He used International letterhead to write a campaign advocacy letter for Alvarado. (Exs. 348-351)

6. Aloise's Prior Violation of the IBT Constitution to Interfere with the LMRDA Right to Fair Hearings

In Bales, supra, in which Aloise's conduct was reviewed, the Election Supervisor ("ES") found that the Local 853 Executive Board had improperly sat on a disciplinary charge Aloise filed. (Ex. 290) The ES held that Article XIX §1(a) of the IBT Constitution that prohibited an involved officer from participating in deciding a matter or appointing members to a panel, included those instances in which the officer because of personal biases or prejudices could not be expected to judge the matter impartially. (Exs. 33; Ex. 290 at 5)[143] Here, in the Local 601 election campaign, Aloise engaged in violative conduct both when he appointed the hearing panel on Pimentel's charge against Alvarado, including appointing Alvarado supporter Rosas to the panel, and when he approved the panel's decision on the charge Pimentel lodged against her. (Exs. 260, 266-268) He engaged in indisputable violative conduct when he appointed the Joint Council panel and voted to approve the panel decision regarding the election protests Alvarado's opponents filed in connection with the Local 601 election. (Ex. 270 at 6; Ex. 318 at 7; Ex. 33 at 136) He violated his fiduciary duty when he allowed Rosas to improperly vote to approve that decision also. (Ex. 318 at 7) The evidence established Aloise could not be impartial concerning Alvarado, yet unrestrained by the rules he knew, he proceeded to violate the Constitution and the LMRDA to achieve his political objective. (Exs. 200, 201)

7. Analysis

a. Summary

[143] In Bales, the Election Supervisor wrote that "the six trial committee members who had contributed to the Aloise campaign for International office were invested in his election and therefore "involved" in the outcome." (Ex. 290 at 5)

Aloise engaged in a pervasive pattern of violative conduct in connection with the Local 601 election in 2013. In doing so he brought reproach on the IBT. In United States v. IBT [Ligurotis], 814 F. Supp 1165, 1181 (S.D.N.Y. 1993), which involved a disciplinary matter under the Consent Order, the Court upheld the finding that Ligurotis through a pattern of not following rules and taking action that violated or skirted the law brought reproach upon the IBT. The Court adopted the Independent Administrator's statement that, ". . . a pattern of conduct constitutes a violation of the IBT Constitution, even if no single element of the pattern is itself a violation." The Court there stressed that Ligurotis would not follow rules that restrained his actions. Id. Here, similarly, Aloise ignored the restraints imposed on union officials to ensure fair elections. He defiantly repeated violations that in earlier elections he had been caught committing. In re Gegare, supra, (Ex. 159); In re Bales, supra, (Ex. 290); In re Certain Campaign Contributions, supra,. (Ex. 286)

b. Aloise Improperly Used Union Resources to Support Alvarado's Campaign

Aloise, by using union resources and equipment to support Alvarado and to undermine her opponents in the Local 601 election, violated and assisted others to violate 29 USC§ 481(g); 29 CFR 452.73, 452.76 and 452.78. For example, he used union equipment and resources such as his cell phone, Local computers and its email system to assist Alvarado's campaign. (Ex. 1 at 71-72; Ex. 183 at 17; Exs. 206, 207, 209, 201, 212-214) He misused Joint Council letterhead, postage and Local and Joint Council employees to send out his letter attacking Pimentel's perceived attorney to assist Alvarado. (Ex. 239; Ex. 1 at 139; Ex. 183 at 25) He also illegally used the union's political clout developed through members' dues in an effort to support his candidate and harm

Pimentel's campaign.[144] Indeed, there was no meaningful difference between using Teamster political influence gained through the per capita tax funding of the California Teamster Public Affairs Council and its personnel, all paid for by members, and using the offer of union jobs for political reasons that the Election Appeals Officer found to be a misuse of union resources that Aloise and others used to support a candidate in 2010. (Exs. 159, 324)

As the IBT summarized in its Code of Conduct:

> The law and the International Constitution strictly prohibit the use of International Union funds and resources to support or oppose candidates for internal union office, and, as a result, we must take particular care not to use International funds, assets, time or resources to engage in internal political activity.

(Ex. 192 at 14-15) As Aloise well knew, the same restrictions applied to the use of Joint Council and Local resources.

Title 29 USC §481(g) provides:

> No moneys received by any labor organization by way of dues, assessment, or similar levy, and no moneys of an employer shall be contributed or applied to promote the candidacy of any person in any election subject to the provisions of this subchapter. Such moneys of a labor organization may be utilized for notices, factual statements of issues not involving candidates, and other expenses necessary for the holding of an election.

As the statute prohibits any union money from being used, there is no minimum threshold value of the union resources used needed in trigger the statute's prohibition. Donovan v. Metro. Dist. of Carpenters, supra, 797 F. 2d at 145; Schutz v. Local 6289, 426 F.2d 969, 972 (9th Cir. 1970); 29 C.F.R. 452.73.

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[144] Broad, who contacted the state senator regarding Romero, held a title at CTPAC which was funded by per capita tax on members in both California Joint Councils. (Exs. 255, 261; Ex. 1 at 68) Teamster endorsements of political candidates were a union resource not a thing for Aloise to use as he personally chose.

The Department of Labor has issued regulations that further illuminate what conduct violates the statute. 29 CFR 452.73 provides in pertinent part:

> In the interest of fair union elections, section 401(g) of the Act places two limitations upon the use of labor organization funds derived from dues, assessments, or similar levy. These limitations are:
>
> **(a)** No such funds may be contributed or applied to promote the candidacy of any person in an election subject to title IV, either in an election within the organization expending the funds or in any other labor organization; and
>
> **(b)** No such funds may be used for issuing statements involving candidates in the election.

The statutory restrictions of 29 USC § 481(g) on the use of union funds are further detailed in 29 CFR § 452.76 which provides:

> Unless restricted by constitutional provisions to the contrary, union officers and employees retain their rights as members to participate in the affairs of the union, including campaigning activities on behalf of either faction in an election. However, such campaigning must not involve the expenditure of funds in violation of section 401(g). Accordingly, officers and employees may not campaign on time that is paid for by the union, **nor use union funds, facilities, equipment, stationery, etc., to assist them in such campaigning.** Campaigning incidental to regular union business would not be a violation.

(Ex. 341 (emphasis added))

The use of union or employer email systems to assist a candidate violated the statute. E.g., Solis v. Local 9477, 798 F. Supp. 2d 701, 705 (D. Md. 2011) (no difference between using email systems for promoting a candidate than from using photocopier or fax machine). An email system is the employer's property, here the Local union. See, In re The Guard Publishing Company et al, 351 NLRB No. 70 (2007) (email system is employer's property); In re Purple Communications, 361 NLRB No. 126, 2014 WL 6989135 (2014) (same). Here, in addition to the email system, Aloise

used union resources including a cell phone, computer, stationery, postage, dues developed political clout and personnel. (Exs. 198, 236, 237, 256, 264, 265; Ex. 183 at 25)

Aloise claimed in his pre-charge submission to the IRB that an NLRB decision involving members' use of an employer's email system in an organizing effort supported his use of the union email system to assist Alvarado. (Ex. 183 at 17-18) Apparently, although it did not involve the issue of internal union elections, he believed the NLRB decision trumped the explicit statutory prohibition because it fits, he asserted, the needs of the Twenty-First century. (Ex. 183 at 17-18) Despite the rhetoric, it provided no such support. Title 29 USC §481(g) expressly prohibited the use of union resources in connection with the support of a candidate in a union election. Aloise knew that. As the NLRB decision made explicit, the email system was the employers' property. In re: Purple Communications, Inc., 361 NLRB No. 126; 2014 WL 6989135 *5-6 (2014). Once that is established, an incumbent union official's use of the union's email system to support his union candidate was forbidden under the statute. Aloise used the illegal advantage to support Alvarado. He knew the law and, as was his wont, he broke it because it hindered his aims.

Similarly, Aloise's current contorted explanation that he was not using Teamster political clout gained through members' dues to advance Alvarado's candidacy when he was contacting elected officials to have them interfere with Pimentel's campaign by stopping his perceived campaign manager from assisting him was not grounded in the facts. (Ex. 183 at 21-23; Ex. 184 at 11) The argument he advanced did not match the contemporaneous documents and Aloise's actions and words. (Ex. 183 at 21-23; Ex. 184 at 11; Exs. 236, 256, 263-265) Indeed, Aloise admitted he was inflamed because if the staffer for these Teamster-endorsed politicians were involved, he was working against Alvarado whose re-election Aloise personally considered important. (Ex. 184 at 11, ¶32) He and Bonsall were on Alvarado's campaign team. (Exs. 207,

215, 236, 256, 261) He acted consistent with Bonsall's suggestion to promote Alvarado's candidacy. (Exs. 236, 256) Bonsall's email entitled "Pimentel's Campaign Manager" was directed to Aloise alone and Aloise forwarded it to Bloch and Broad, Teamster employees whom he supervised. (Exs. 236, 256) Aloise's words in his emails were solely about damaging Pimentel's campaign for Alvarado's advantage. Aloise instructed Broad to express Aloise's great personal displeasure stating, "I take it extremely personal and she should know that he will have some DOL issues over that this can drag her into it if she is paying him." (Ex. 263) Aloise instructed Broad to tell the Senator he was concerned that his candidate could lose to the "white boy group." (Ex. 263) Certainly, that indicated his use of these resources was to support a candidate in the Local election and his concern was to damage her opponents.

Aloise admitted the IBT had supported both political candidates he had contacted over Pimentel's campaign manager. (Ex. 184 at 11) His instructions to Broad and Bloch were to give them "an earful" about his displeasure over the support their staffer might be giving for the other union candidates. (Ex. 236) He was threatening, as his instruction to both Broad and Joint Council employee Bloch indicated, that there would be consequences to the politicians in future elections if they did not act as he directed with respect to the Local 601 election. (Exs. 236, 256, 263) To support a local candidate in 2013, he was misusing that union resource just as he had been found to misuse a union job offer to support a candidate in 2010 in the 2011 IBT election. Gegare (2/16/11) (Ex. 159 at 3-4) relying on fact finding in Gegare (1/20/11) Ex. 324 at 26-27)

Moreover, Aloise's claim that he was relying on Bonsall's legal advice was not supported. (Ex. 183 at 21-23) Bonsall and his firm were Alvarado's lawyers. (Exs. 207, 236, 256, 261, 280, 311, 364) Bonsall, as the emails show, was part of Alvarado's campaign's inner circle along with Aloise. (Exs. 207, 236, 256, 261) Aloise would know that Bonsall had interests and loyalties that

rendered his advice partisan when concerning the Local 601 campaign. Indeed, Aloise only had to read the email that prompted him to act to know that. (Ex. 236) Aloise did not even know how Bonsall was paid for his efforts to undermine Pimentel concerning Romero. (Ex. 1 at 135) Indeed, Bonsall was providing campaign and not legal advice so Aloise had to reason to rely on him. To the extent there was any legal advice to rely on, a sophisticated Teamster officer's reliance on advice from counsel known to be conflicted is not a defense to his misconduct. United States v. IBT [Simpson], 931 F. Supp. 1074, 1091 (S.D.N.Y. 1996).

In addition to violating the statute through using union resources to promote Alvarado's candidacy, Aloise also caused employers such as designers, lawyers and lobbyists to volunteer services for the Alvarado campaign or his efforts to undermine her opponents. That conduct violated 29 USC §481(g). See, IBT Code of Conduct at 14-15 (Ex. 192). 29 CFR 452.78(a) explains: "This prohibition against the use of employer money includes any costs incurred by an employer, or anything of value contributed by an employer, in order to support the candidacy of any individual in an election." This was forbidden conduct for all employers, not only those who employ IBT members or who have any business relationships with the union. Id. at 452.78 (b). Aloise had employers such as Turner, the law firm of Broad and Gusman, and the Beeson firm donate services to the Alvarado campaign.

Throughout 2013, Aloise used union resources to support Alvarado. Moreover, despite his knowing they were doing it, he also never stopped Alvarado and her Teamster supporters from using union resources, including Local email systems and the IBT logo, for improper political purposes in violation of federal law.[145] Aloise, who had a fiduciary duty to end the wrongdoing,

[145] Barrera used the IBT's horsehead logo on campaign messages he sent. (Exs. 275, 336-338) Under the IBT Constitution, Article VII, Section 9, the logo is union property. (Ex. 33)

instead assisted their violations of 29 U.S.C.§ 501(a) and also violated his fiduciary duty in encouraging them. United States v. IBT [Carey], supra, 247 F.3d at 381-84; United States v. IBT [Sansone], supra, 981 F.2d at 1368-69; *see*, Semancik v. United Mine Workers, supra, 466 F.2d at 155 ("Union officers... have a fiduciary duty under Section 501... to insure the political rights of all members of their organization.") Allowing an incumbent to have this unfair advantage through the use of union property in violation of the law was one more blow that Aloise struck against union democracy.

c. Aloise Trampled on Members' LMRDA Rights

Aloise's pattern of misconduct expanded beyond violations of 29 USC § 481(g). He on several occasions attempted to interfere with Pimentel's LMRDA protected rights of free speech, fair hearing and to sue in court and retaliated against their exercise in violation of the law and IBT Constitution, Article XIX, Section 7(b)(10). Also in connection with the election, Aloise violated the IBT Constitution and Pimentel's and Reyes' LMRDA guaranteed right for a fair hearing when he appointed the hearing panel and sat on matters involving Alvarado and the election. Semancik v. United Mine Workers, supra, 466 F.2d at 157 ("A tribunal of the political opponents of those on trial offends our most basic notions of fairness."); Knight v. Int'l Longshoremen's Ass'n, supra, 457 F.3d at 342-45 (panel member's prejudgment of the case violated LMRDA due process rights of charged party); Goodman v. Laborers' Int'l Union, supra, 742 F.2d at 784 (prejudgment by one decisionmaker can be "sufficient to taint the proceedings and constitute a denial of the right to a full and fair hearing under the LMRDA"). That Aloise, the head of the Joint Council, sat on a

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Alvarado and Rosas were well aware that their conduct was improper. Rosas, an Aloise ally whom Aloise included in the 2013 Alvarado campaign, in connection with the 2011 International delegate election had used his Local's resources to provide facilities and funds for Alvarado's delegate campaign. In re Lucio Reyes, 2011 ESD 281 Protest Dec (June 18, 2011) (Ex. 288) Alvarado was found to have lied about what she had done and her knowledge of the Rules. (Ex. 288 at 8)

protest of the Local 601 election made by candidates whom he declared, unknown to those candidates, would only win over his dead body, was unfair and in itself reproachful conduct, as he well knew.

In addition, despite Aloise's evident bias towards Alvarado, as evidenced by his being a major advisor to and actor for her campaign and providing it financial support from a Local 853 officer campaign fund he controlled, he improperly participated in the Joint Council ruling based on the decision of a hearing panel he improperly selected, which included Alvarado supporter Rosas, to hear the charges one of her opponents brought against her in violation of Article XIX, Section 1(a) of the IBT Constitution. (Ex. 33)[146] E.g., Knight v. Int'l Longshoremen's Ass'n, supra, 457 F.3d at 342-45. Before he improperly appointed Rosas to the hearing panel and participated in the Joint Council decision, Aloise had stated: "Let me make it clear anyone who runs against Ashley is running against me and I will treat them accordingly from now on and forever." (Exs. 200, 278; Ex. 268 at 8; Ex. 270 at 6) Pimentel would have fallen into the category of those Aloise was going to treat "accordingly" forever.

Aloise well knew from an earlier Election Supervisor decision that he was a party to, that because of his committed support for Alvarado and inability to be impartial, he could not participate under the IBT Constitution because he was involved in the matter. Art. XIX, §1(a) (Ex. 33); In re Roger Bales, Protest Dec. 2011 ESD 256 (June 28, 2011) (Ex. 290) Yet, he defiantly proceeded in violation of the IBT Constitution and the law.[147]

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[146] Aloise was so deeply immersed behind the scenes in Alvarado's campaign he even ghost wrote her "Thank you" letter to the Local 601 members on her re-election. (Ex. 335) This was done prior to Aloise participating in the Joint Council decision denying the election protests Alvarado's opponents filed. (Ex. 319)

[147] Apparently, Aloise's sense of "common decency" which applied to taking photographs on cell phones did not extend to providing members fair hearings. (Ex. 1 at 136-137; Ex. 257)

Aloise also took actions intended to violate Pimentel's LMRDA protected free speech and right to sue and misused his Joint Council position and resources to do so. He used Joint Council letterhead in an attempt to stop Pimentel from circulating, as was his right to do, photographs of Alvarado in the campaign with the threat of a retaliatory bogus charge.[148] He used union resources to attempt to strip Pimentel of his presumed campaign manager and of his presumed legal advisor to undermine his right to broadcast his opposition message during the campaign. Aloise continuously used his enormous power in the union to quash democracy. As the court in Semancik noted, "The purpose of construing union power narrowly and the members' freedom of speech broadly is to foster truly democratic governance in labor unions." 466 F.2d at 153.

Pimentel's lawsuit was a protected right under the LMRDA and as such, even if brought in bad faith, protected from union discipline under 29 USC §411(a)(4). That statute provided in pertinent part: "No labor organization should limit the right of a member thereof to institute an action in any court..." Indeed, the Third Circuit noted that a state defamation or libel suit was the only avenue open to an opposition candidate who has been defamed in a union election campaign, as Pimentel and his slate member claimed they were. (Ex. 240) Semancik v. United Mine Workers, supra, 466 F.2d at 154. Aloise was engaged in an effort to subvert both that right and Pimentel's right to freely oppose Alvarado with appropriate legal assistance. Aloise's defense was that it was Joint Council policy to punish lawyers who dared to represent members in statutorily protected suits against incumbents and Locals. (Ex. 184 at 11-12) That he as a matter of policy consistently attempted to keep members from having adequate representation in LMRDA

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148 Aloise was sensitive to the importance of photographic images in the campaign. He stressed to Barrera that the Alvarado campaign should use "unflattering" pictures and a "gang pic" of Reyes in its campaign material. (Ex. 210)

actions and attempted to punish lawyers for assisting members in their exercise of their LMRDA right to sue, only aggravated the wrongfulness of his actions here.

Local 601 was not the first Teamster election in which Aloise improperly attempted to retaliate against a member for exercising an LMRDA right. In the 2011 International election, Aloise filed internal union charges at Local 853 against a member who was a political opponent, alleging that he brought reproach upon the union when he accused Aloise of wrongdoing. (Ex. 290) The Local 853 panel found the member liable as charged. (Ex. 290 at 2-3) The Election Officer caused the charge to be withdrawn and the Local's opinion expunged because it was an attack on the member's guaranteed free speech rights under federal labor law. In re Roger Bales, Protest Dec. 2011 ESD 256 (June 28, 2011) (Ex. 290 at 6-7) That misconduct was a foreshadowing of Aloise's conduct here where he both attempted to block Pimentel's free speech right to distribute pictures of Alvarado and to interfere with Pimentel's ability to spread his message by attacking his ability to use individuals whom Aloise believed were his campaign manager and attorney. He aggravated the violation in illegally using union resources he was a steward over for his personal political goal of re-electing Alvarado.

The Labor Management Reporting Disclosure Act guaranteed a member the right to sue a local and its officers. 29 USC § 411(a)(4). It recognized that political opponents of incumbents would file these suits. Since Aloise knew Alvarado and other incumbents could not insulate themselves from member suits by disciplining members for bringing suits, Aloise encouraged the officers, despite their already tremendous advantage as incumbents, Hall v. Cole, supra, 412 U.S. at 13, to achieve a similar result to deter member's suits through making it more difficult for members to find experienced lawyers to represent them because the resulting organized loss of union business Aloise orchestrated would be too great a burden for a lawyer to bear if he

represented members. In attacking Absalom, Aloise's immediate goal was to interfere with Pimentel's campaign. These consequences were the intended results of Aloise's calling for incumbents to boycott a lawyer for daring to represent a member and an opponent of the incumbent in a lawsuit the head of the Joint Council opposed for political reasons.[149] He did this through deliberately making false representations in the letter on Joint Council letterhead he caused to be sent. The right to sue provision in 29 USC §411(a) (4) prohibited any limitations on the exercise of the right. Pawlak v. Greenawalt, 628 F. 2d 826, 829-30 (3d Cir. 1980); Operating Engineers v. Burroughs, supra, 417 F.2d at 373 (freedom to sue is precious). Aloise impeded that right through his indirect attack on the members' access to lawyers for campaign reasons. United Steelworkers v. Sadlowski, 457 U.S. 102, 119 (1982).

d. Aloise Breached His Fiduciary Duties and Brought Reproach on the IBT When He Failed to Act to End Alvarado's Known Failure to Follow the General Secretary-Treasurer's Instructions Regarding Financial Issues in Local 601

Furthermore, Aloise breached his fiduciary duty under 29 U.S.C. § 501(a) when knowing of Alvarado's and Barrera's failure to follow federal law prohibiting the use of union resources to promote her candidacy, he ignored their unlawful acts. Moreover, he breached his fiduciary duty to investigate and act when learning of Alvarado's years long failure to follow the IBT auditor's and General Secretary-Treasurer's instructions concerning financial issues in her Local which was in deteriorating financial condition. United States v. IBT [Carey], supra, 247 F.3d at 381-85; United States v. IBT [Sansone], supra, 981 F.2d at 1369.[150]

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[149] Aloise claimed that his attack on Absalom was not the first organized boycott in Joint Council 7 against lawyers who represented members in suits against Locals and their incumbent officers. (Ex. 184 at 11-12)

[150] He also improperly used his office as Vice President and IBT letterhead during the campaign to write a letter at Alvarado's campaign manager's request that they could use in the union. (Exs. 348-351)

Aloise used all the means at his disposal as an International Vice President, Joint Council President, and a Local officer to quash election opposition to his selected candidate in Local 601. Through Aloise's pervasive pattern of conduct to undermine a fair election in Local 601, he brought reproach on the IBT in violation of Article II, Section 2 of the IBT Constitution. E.g., United States v. IBT [Ligurotis], supra, 814 F. Supp at 1181 (a pattern of conduct of rules violations constituted reproachful act). As the Second Circuit noted in a case involving high ranking IBT officials' breach of fiduciary duty to ensure a fair election: "Union democracy is premised on fair elections. To that end, union officials...have the duty to ensure the integrity of the process and to fulfill their obligations to union members by adhering to the highest standards of governance." United States v. IBT [Carey], supra, 247 F.3d at 396; See Semancik, supra, 466 F.2d at 155 ("Union officers... have a fiduciary duty under Section 501... to insure the political rights of all members of their organization.") Aloise breached his duties and brought reproach upon the IBT by engaging in conduct far below that required of an IBT officer under the Consent Order. Indeed, he consistently violated the law. In 2013, Aloise actively sought to undermine the integrity of the election process in Local 601. In Ligurotis, when faced with multiple instances of wrongdoing of a Teamster official, Judge Edelstein affirmed the Independent Administrator's finding that a pattern of misconduct brought reproach upon the IBT. The Judge quoted with approval the Independent Administrator's explanation that the respondent, "engaged in a pattern of conduct of disregard for any standard of conduct expected of a high-ranking union official. Such contempt for rule of law is precisely what the Consent Decree . . . was designed to eliminate from the IBT." United States v. IBT [Ligurotis], supra, 814 F.Supp at 1184. That is an apt description of Aloise's conduct in the Local 601 election and elsewhere. When committed by a

high ranking official like Aloise, the offenses are even graver actions. United States v. IBT [Simpson], supra, 931 F.Supp. at 1114; United States v. IBT [Carey], supra, 247 F.3d at 389-90.

IV. PROPOSED CHARGES

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

Charge One

While an International Vice President, President of Joint Council 7 and principal officer of Local 853, you brought reproach upon the IBT, violated the Taft Hartley Act, 29 U.S.C. §186(b), engaged in acts of racketeering and violated the injunction in Paragraph E(10) of the Consent Order by requesting and receiving things of value from IBT employers in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(2), (11) and (13) of the IBT Constitution *to wit*:

In 2013, while an International Vice President, President of Joint Council 7 and principal officer of Local 853, you requested and received things of value from Southern Wine and Spirits, an employer of Teamster members with whom you were negotiating. As detailed above, these things of value were six admissions to a Playboy Super Bowl party for another Teamster official and his family and friends, a job for your cousin and the retention of your cousin in his job after the employer determined he was not performing as required. In addition, as described above, in February and March 2013, you requested a thing of value, a job for your cousin, from Gillig Corporation which employed Teamster members.

Charge Two

While an International Vice President, President of Joint Council 7 and principal officer of Local 853, you brought reproach upon the IBT, violated Article XII, Section 1(b) and Article XIV, Section 3 of the IBT Constitution and Article IV, Section 6 and Article XVIII, Section 6 of the

Local 853 Bylaws in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(1) and (2) of the IBT Constitution *to wit*:

In 2004 and subsequent years, while principal officer of Local 853, you entered into collusive, sham collective bargaining agreements with GrandFund. As described above, you allowed the employer to select the bargaining agent for his employees and caused Local 853 to commit an unfair labor practice in violation of 29 U.S.C. §158(b)(1)(A) by interfering with the employees' right to select their representative, 29 U.S.C. §157. As described above, in addition, you failed to follow IBT Constitutional and Local 853 Bylaw requirements regarding contract negotiations and ratifications. In addition, in 2012 you allowed an ineligible person to obtain and retain membership in Local 853 as detailed in the above report in violation of Article XIV, Section 3 of the IBT Constitution.

Charge Three

While an International Vice President, President of Joint Council 7 and principal officer of Local 853, you brought reproach upon the IBT through a pattern of misconduct in connection with the Local 601 officer election that included violations of 29 U.S.C. §481(g), breaches of your fiduciary duties under 29 U.S.C. §501(a), attempts to interfere with members' LMRDA rights under 29 U.S.C. §411(a)(2), (4) and (5), and violations of Article XIX, Sections 1(a) and 7(b)(10) of the IBT Constitution in violation of Article II, Section 2(a) and Article XIX, Section 7(b)(1), (2) and (10) of the IBT Constitution *to wit*:

In 2013, while an International Vice President, and principal officer of Joint Council 7 and Local 853, you engaged in a pattern of misconduct designed to prevent a fair officer election in Local 601, including using union resources to support a candidate and subvert her opponents and attempting to deny members' LMRDA rights to free speech, to sue and to fair hearings. In

addition, you breached your fiduciary duties by ignoring, when known to you, your candidate's wrongdoing and also by failing to act to end her known defiance of the General Secretary's instructions as detailed in the above report. By failing to ensure the internal political rights of IBT members to a fair election, you also breached your fiduciary duties under 29 U.S.C. §501(a). Your pattern of misconduct is described in the above report.