



Committee on Education and the Workforce
Subcommittee on Oversight and Investigations

Peter Hoekstra, Chairman

SUBCOMMITTEE REPORT

**REPORT ON THE FINANCIAL, OPERATING
AND POLITICAL AFFAIRS OF THE
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS**

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CHAPTER I:
EXECUTIVE SUMMARY

Introduction

In June 1988, the U.S. Department of Justice filed a civil lawsuit against the International Brotherhood of Teamsters (“Teamsters” or “IBT”) under the Racketeer Influenced and Corrupt Organizations Act (“RICO”), alleging that the union was “a wholly owned subsidiary of organized crime.” On March 14, 1989, the Teamsters settled the lawsuit agreeing to unprecedented reforms in the union. The terms of the settlement were memorialized in a Consent Order signed by both the Department of Justice (“DOJ”) and the Teamsters.

After nearly ten years of close government involvement in the Teamsters, is the union better off? The answer to that question certainly is yes. Organized crime presence in the union continues, but it is far less than it was in the years leading up to the Consent Order. Today, high-ranking union officials are no longer members or notorious associates of organized crime. Yet, as the Subcommittee on Oversight and Investigations of the Committee on Education and the Workforce has observed during a sixteen-month investigation, corruption existed on a significant scale during the regime of Ron Carey, as demonstrated by the downfall of Mr. Carey, the deteriorating financial condition and questionable financial practices on the International union, and the imposition of trusteeships at numerous corrupt IBT locals. Unfortunately, the rank-and-file members of the Teamsters Union are not yet close to the democratic union envisioned by the Consent Order. This leads to several questions for future examination:

- (1) Does the 1989 Consent Order provide the framework to prevent non-organized crime related corruption by union officials?
- (2) What process is in place to evaluate whether the Consent Order has been successful in instilling democracy and integrity within the union?
- (3) When will it be appropriate to end the court-mandated actions, and what steps must the government and the union take to terminate the Consent Order?

Based on what we have seen, it is clear that the Consent Order is not the only required path to reform at the IBT. The Department of Justice needs to do more. The current criminal investigation surrounding the Teamsters 1996 election being conducted by the U.S. Attorney for the Southern District of New York (“Southern District”) appears to have stalled, despite repeated cooperation from the Subcommittee. On numerous occasions, the Subcommittee refrained from questioning witnesses and pursuing certain areas of inquiry at the request of the Southern District. The Southern District did not want their criminal investigation to be tainted and the Subcommittee deferred to DOJ’s wishes. However, after receiving guilty pleas from three campaign consultants in September 1997, the U.S. attorney has managed only two guilty pleas from minor players in the illegal contribution schemes and the indictment of the IBT’s former political affairs director, William Hamilton. Mr. Hamilton has yet to go to trial. It appears that high-ranking union officials, third party political organizations, and officials at the Democratic National Committee, who federal monitors found were involved in the illegal activities, have escaped serious scrutiny. Equally disturbing is the Attorney General’s recent decision not to appoint an independent counsel to investigate former White House Deputy Chief of Staff, Harold Ickes, and efforts he made to help the Teamsters settle a strike.

Given DOJ's lack of zeal in pursuing these allegations, it is not surprising that union members who witness corruption are reluctant to come forward.

The Department of Labor ("DOL") also needs to do more. The DOL can provide more effective oversight of the Teamsters, specifically in the area of financial reporting. Current reporting requirements do not allow rank-and-file members to get a true picture of a union's finances and, therefore, union leaders cannot be held to account for their prolific spending of hard earned dues money. Further, the financial reports submitted by the Teamsters or any other union, despite their shortcomings, are not being audited on any regular basis by the DOL.

Congress also should play a role. If current labor laws are insufficient, they should be amended. If current labor laws are not being properly enforced, those responsible for enforcement should be taken to task.

Finally, and most importantly, the Teamsters themselves must undergo some necessary changes. The Federal government, Congress, the Election Officer, the Independent Review Board, the American taxpayer, this Subcommittee, and many Teamsters at the grassroots level have committed tremendous resources and energies to cleaning up this union. However, this cannot be accomplished without the commitment of the leadership itself. The newly elected leadership at the IBT has the opportunity and responsibility to change and evolve both the existing culture and management structures at IBT headquarters. The new leaders should also demonstrate an unqualified willingness to be held accountable and a commitment to integrity and democracy within the union. Rank-and-file members deserve nothing less. The Subcommittee is willing to work with the new leadership in whatever way it can.

This report details the findings, conclusions, and recommendations of this Subcommittee. The recommendations are intended to help move the IBT towards a union where the leadership is fully accountable to the membership without the need for costly and uncomfortable government involvement. This is an attainable goal; however, there is still much work to be done.

Background

In December 1991, the International Brotherhood of Teamsters held a watershed election in accordance with the Consent Order. For the first time, rank-and-file Teamsters were empowered to select their leaders through a government-supervised, direct, secret ballot election. The winner in a three-way race for the union's presidency was Ronald Carey, an outsider candidate who ran on a reform platform with the support of the anti-establishment Teamsters for a Democratic Union. Carey's victory was hailed as a sweeping call for reform,¹ and provoked widespread anticipation that the country's largest and most storied union would undergo major positive changes.²

George Kannar, writing in The Yale Law Journal, likened Carey's ascendancy to post-World War II Germany, reasoning that, "[t]he Teamsters old guard was, in fact, *so* well-entrenched, and also *so* offensive even to those beyond their direct sway, that they

¹ See, e.g., Robert D. McFadden, *New Teamster Chief's Motto: Honest Work for Honest Pay*, New York Times, December 15, 1991, at 1; Stephen Franklin, *Vow to Fight Corruption Gave Teamster Reformer Decisive Edge for Top Job*, Atlanta Journal and Constitution, December 17, 1991, at F3.

² See, e.g., Leonard Silk, *What Do these Hard Times Do to Unions?*, St. Louis Post-Dispatch, December 26, 1991, at 10D; Vicki Vaughan, *New President Signals Change for Teamsters*, Orlando Sentinel Tribune, December 22, 1991, at F1; David Nyhan, *A New Day for Labor*, The Boston Globe, December 21, 1991, at 19.

inspired the institutional equivalent of a foreign invasion.”³ Yet, as sanguine as he was at the time, Professor Kannar knew the proof of Carey’s regime would be in the results he achieved. Kannar thus wrote:

In the Teamsters, where the regime-change election results themselves suggest that cynicism and apathy continue to exercise a strong hold, rank-and-filers must be convinced that democracy is a better system strictly through the evidence adduced by the newcomers’ own performance in office. And all of the participants are aware that “better” is likely to be evaluated, in the long run, largely in terms of whether democracy can “deliver” more.⁴

In the fall of 1997, the House of Representatives charged the Subcommittee on Oversight and Investigations of the Committee on Education and the Workforce with investigating fundraising improprieties by Mr. Carey’s 1996 re-election campaign. The Subcommittee focused its initial efforts on the 1996 IBT election and why, despite the expenditure of approximately \$20 million in taxpayer funds, the 1996 election failed. In the course of its work, the Subcommittee has been able to assess the performance of IBT leadership during the period following the 1991 election. And despite the optimism that followed that election, the Subcommittee found that the union’s leadership failed rank-and-file Teamsters in several important respects.

This report presents the most significant information developed by the Subcommittee over the past year and sets forth the Subcommittee’s findings in a number of important areas. Many of these findings are troubling and concern issues central to rank-and-file union members. The findings relate directly to IBT finances, operational

³ George Kannar, *Making the Teamsters Safe for Democracy*, 102 Yale L. J. 1645, 1654-55 (1993) (emphasis in original).

⁴ *Id.* at 1655.

control, and political activities. They also concern issues under investigation by the Department of Justice, and issues that have led to criminal charges and plea agreements to felony offenses. It is important to keep in mind that the Subcommittee continues to investigate a number of the matters discussed below, and that its findings will be refined accordingly.

The Subcommittee has concentrated its attention on a handful of key areas that go to the heart of the Teamsters' governance over the past several years. These areas are discussed, in brief, below.

The 1996 Teamsters Election

In 1996, incumbent Ron Carey ran against James P. Hoffa for the IBT presidency in an election paid for by the U.S. government in accordance with the 1989 Consent Order. Mr. Carey won – 237,028 votes to 221,110. Soon after the votes were counted, Mr. Hoffa protested the election alleging that Ron Carey had received campaign contributions not permitted under the election rules. On August 21, 1997, Barbara Zack Quindel, the Election Officer charged with overseeing the 1996 IBT election, found that improper fundraising activities conducted for the benefit of Ron Carey affected the outcome of the election. As a result, Ms. Quindel invalidated the election results and ordered a rerun election between Mr. Carey and Mr. Hoffa.⁵

⁵ The ballot count in the 1996 IBT election concluded on February 27, 1997. Thereafter, the Election Officer investigated and considered a number of post-election protests, which she consolidated into one opinion, styled In re: Jeraldine Cheatem, et. al., Decision, August 21, 1997 [Hereinafter referred to as the “Quindel Decision”]. The most notable protests concerned allegations that improper contributions were funneled into Ron Carey’s re-election campaign. It was these protests that caused the Election Officer to decide not to certify the 1996 election results. As can be seen in the following passage from the Election Officer’s decision, the misconduct she found was significant and alarming:

Although Ms. Quindel’s decision held that Mr. Carey did not have knowledge of the contributions made illegally to his campaign, the Election Officer re-opened the issue a month later. After Ms. Quindel recused herself from any further investigation due to an apparent conflict of interest, Judge David N. Edelstein designated Kenneth Conboy the new Election Officer “for the sole purpose of investigating and deciding the issue of disqualification of Ronald Carey from the rerun election.”⁶ Mr. Conboy found that Mr. Carey “expended substantial funds from the IBT’s general treasury for the benefit of his campaign for union office,” and disqualified him from running as a candidate in the rerun election.⁷

As is widely known, the matter has criminal implications as well, which the Office of the United States Attorney for the Southern District of New York has been investigating. To date, criminal charges have been filed against six persons involved in the schemes, including the Teamsters’ former Director of Government Affairs, a consultant

The violations of the [Election] Rules described above were not merely technical, but products of schemes to funnel Union and outside money into the election and thus change the outcome. These were egregious violations by high level campaign functionaries who believed winning at all costs was more important than abiding by the Rules and the law. Members cannot have confidence in their Union or its leaders if they see that their choice of officers has been manipulated by outsiders. They cannot have confidence in the Consent Decree if Court officers do not take effective action to prevent and remedy such misconduct.

* * *

Because the violations of the Rules described above may have affected the outcome of the election and further threatened the integrity of the process, the Election Officer hereby orders a rerun election

Quindel Decision at 114.

⁶ In re: Jeraldine Cheatem, et. al., Decision of the Election Officer for the International Brotherhood of Teamsters, November 17, 1997 (citing Order of Judge Edelstein dated September 29, 1997) [Hereinafter referred to as the “Conboy Decision”].

⁷ Id.

for both the IBT and the Democratic National Committee (“DNC”), and an attorney for the Carey campaign.

The Subcommittee has investigated the misconduct that corrupted the 1996 IBT election but, at the request of the Southern District, has refrained from examining areas that might adversely impact its criminal investigation. In practical terms, the Southern District has asked the Subcommittee to forbear attempts to interview or depose several of the persons most knowledgeable about the fundraising improprieties.⁸ The Subcommittee has complied with the Southern District’s requests and will continue to do so. But it remains concerned about the pace of the Southern District’s investigation and the fact that, some two years after the contribution swaps first were exposed, the Southern District has not tried a single individual in connection with the matter. Thus far, it appears that high-ranking union officials, third party political organizations, and individuals at the Democratic National Committee have escaped serious scrutiny.

Nevertheless, the Subcommittee has examined some of the alleged misconduct related to the 1996 IBT election, including allegations that Democratic fundraisers agreed to solicit contributions to the Carey campaign in exchange for much larger IBT contributions to the DNC and state Democratic parties. The indictment filed by the Southern District against former IBT Director of Governmental Affairs, William Hamilton, discusses this swap as follows:

In furtherance of this plan, in or about the Spring and Summer of 1996, Martin Davis informed individuals, including the former National Finance Chairperson of the Clinton/Gore ’96 Re-election

⁸ For example, the Subcommittee acceded to the wishes of the Southern District in refraining from contacting former IBT government affairs director William Hamilton, IBT and DNC consultant Martin Davis, and Carey campaign manager Jere Nash. All three of these individuals have been charged with felony offenses.

Committee (the “Clinton/Gore Committee”), and the Finance Director of the DNC, that he could help the DNC with fundraising from various labor groups, including the IBT. Davis, in return, asked for help from the DNC in raising approximately \$100,000 for the Carey campaign. These officials agreed to try and find a contributor for the Carey campaign.⁹

The indictment proceeds to discuss some of the efforts undertaken in furtherance of this swap but notes that “ultimately,” at least one agreed-upon swap was not consummated.¹⁰

The Subcommittee found that the 1996 election may have been tainted in other ways. For example, the Subcommittee heard from a number of rank-and-file Teamsters who testified that they had been pressured to work for and/or contribute to the Carey campaign. These allegations are consistent with the Carey campaign’s myopic focus on the ends of the election, regardless of the propriety of the means employed.

Investigative Hurdles and Limits

The Subcommittee’s investigative efforts were limited not only by its deference to the requests of the Southern District, but also by witnesses who chose to assert their Fifth Amendment privileges against self-incrimination and by the confrontational and uncooperative posture often taken by the Teamsters. Three important witnesses refused to testify before the Subcommittee, resting on their Fifth Amendment privileges instead. One was Ron Carey, the former IBT General President, who would have been asked, under oath, about his knowledge of the union’s precipitous financial decline, its questionable political activities, the role of the General Executive Board, and the contribution swap schemes. A second was Richard Trumka, Secretary-Treasurer of the

⁹ U.S. v. Hamilton, Indictment, at 12 (S.D.N.Y. 1998). [Hereinafter referred to as the “Hamilton Indictment”].

AFL-CIO. The Subcommittee would have asked Mr. Trumka, among other things, about his knowledge of a particular alleged contribution swap involving the AFL-CIO and the Ron Carey campaign. Trumka remains the second highest ranking official at the AFL-CIO despite an AFL-CIO Ethical Code provision holding that officials who assert their Fifth Amendment rights are deemed “unfit to hold union office.” Finally, former Sun-Diamond official Richard Douglas asserted his Fifth Amendment privilege instead of testifying about the Clinton Administration’s efforts to pressure Diamond Walnut Growers, Inc., an affiliate of Sun-Diamond, to settle a long-standing strike with the Teamsters.¹¹

The Teamsters generally did not cooperate with the Subcommittee’s investigation and employed tactics designed to delay or thwart the Subcommittee’s efforts. One tactic the Teamsters used was failing to produce documents responsive to the Subcommittee’s subpoenas until pushed to the brink of contempt. Another was preventing the Subcommittee from interviewing IBT employees or agents whenever possible. This latter tactic was neutralized on July 30, 1998, when the Subcommittee was granted authority to compel deposition testimony. A third tactic was to produce materials “redacted” of any but the most meaningless information.

Ensuring a Fair Rerun Election

Through aggressive oversight, the Subcommittee helped to bring about what appears to have been a fair and open rerun of the Teamsters’ 1996 election. In an effort to

¹⁰ Id. at 14.

¹¹ Letter from Nicole K. Seligman, Attorney for Richard Trumka, to Joseph E. DiGenova, April 17, 1998. Exhibit 1. Letter from Elliot R. Peters, Attorney for Richard Douglas, to Michael D. Bopp, October 1, 1998. Exhibit 2. Letter from Mark J. Hulkower, Attorney for Ron Carey, to William M. Outhier, December 14, 1998. Exhibit 3.

ensure that the rerun election did not fall victim to the same types of abuses that caused the invalidation of the 1996 election, the Subcommittee followed closely the events leading up to the November 1998 rerun, and the election itself. Not long after the media first reported the contribution swap schemes that corrupted the 1996 elections, Subcommittee Chairman Pete Hoekstra wrote to Barbara Zack Quindel, expressing grave concern over her handling of the elections and requesting that she not certify the same before a thorough investigation had been completed.¹² As previously noted, Ms. Quindel ultimately decided not to certify the election and, in her August 21, 1997 decision, ordered a rerun.

From that point on, the Subcommittee actively monitored the rerun process through its successful completion. Subcommittee members played key roles in securing appropriate funding for the rerun election and in evaluating safeguards designed to ensure that the money would be spent responsibly. On two occasions, Michael G. Cherkasky, the Election Officer responsible for overseeing the rerun, testified before the Subcommittee about preparations for the election. The Subcommittee also invited Mary Jo White, U.S. Attorney for the Southern District of New York, to present her views of the rerun process. Though she declined the invitation citing concerns about the integrity of the criminal investigation, Ms. White gave a private briefing on the matter to the Subcommittee Chairman and Ranking Minority Member. Throughout the process, the Subcommittee engaged in regular communications with both the Office of the Election Officer and the Southern District.

¹² Letter from Chairman Pete Hoekstra to Barbara Zack Quindel, June 24, 1997. Exhibit 4.

In short, the Subcommittee provided essential oversight to a process designed to result in a fair, corruption-free election. It appears that the Subcommittee's goals have been achieved.

The Failed Promises and Misplaced Priorities of the IBT General Executive Board, 1992-1997

From 1992 to 1997, the IBT's General Executive Board ("GEB") passed a number of significant resolutions, many of which charted the union's course in fundamental ways. The Subcommittee examined the most significant of these resolutions and, based upon the broad range of information developed over the course of its investigation, was able to evaluate whether the GEB fulfilled its duties and obligations to its members. The Subcommittee's findings were not encouraging.

At the IBT's first 1992 GEB meeting, the newly elected board members passed six omnibus resolutions designed to make a lasting and recognizable mark on the union. As captured by the board minutes, these resolutions addressed such issues as eliminating corruption in the IBT, accountability to the membership, financial priorities, political action and endorsements, and support for third-party groups that assisted unions.

The GEB would effectuate some changes and make good on some of the pledges memorialized in the resolutions. However, for the most part, the GEB took ineffective actions or failed entirely to follow through on its earlier promises. Perhaps most significantly, the GEB took little or no action to implement its resolutions on the union's precarious financial situation and failed to fulfill its obligations to oversee the union's operating affairs. Through a combination of inaction, mismanagement and failed

oversight, the GEB allowed an environment that fostered misuse of union assets, misrepresentation of the IBT's financial affairs, questionable transactions, and illegal activities during the 1996 IBT election, all at the expense of the rank-and-file.

Failed Accountability and Abuse of Operational Structures

The Subcommittee examined the internal operations of the Teamsters and found significant problems. Among the most troubling were problems relating to the creation and use of the union's Ethical Practices Committee ("EPC") and the functioning and authority of the Teamsters' International Trustees. Both issues show the extent to which the Teamsters' leadership seized and maintained tight control over the union and effectively closed it to outside oversight.

IBT leadership may have attempted to maintain control over the union by discouraging – even punishing – political opposition. Early in his tenure as General President of the IBT, Ron Carey created an Ethical Practices Committee “to be run under his constitutionally established corruption-fighting authority.”¹³ Information developed by the Subcommittee – including interviews with a number of current and former IBT officials – indicates that the EPC, in addition to serving as a vehicle to root out corruption, appears to have been used by the Teamsters' leadership to target its political enemies. Indeed, in an interview with Subcommittee staff, the chief investigator for the Independent Review Board¹⁴ characterized the EPC as a “political arm” of the IBT leadership.

¹³ Kannar at 1670.

¹⁴ The Independent Review Board (“IRB”), established pursuant to the Consent Order, consists of three members, one chosen by the Attorney General of the United States, one chosen by the IBT and a third chosen by the Attorney General's designee and the IBT's designee.

These problems could have been predicted from an examination of how Ron Carey set up the EPC.¹⁵ Most notably, Mr. Carey scrapped earlier proposals and created a body that adjudicated allegations of misconduct while specifically denying the accused the right to representation by counsel.

Another way IBT leadership solidified its control over the union was to choke the flow of information to those who might expose wrongdoing. The Teamsters' three International Trustees are officers of the International Union charged by the IBT Constitution with auditing the union's books every six months and reporting their findings to the General President who, in turn, must report to the GEB. From 1993 to 1995, however, IBT officials appear to have delayed and obstructed the Trustees' semiannual audits, denied them access to financial and personnel data, and excluded them from meetings of the GEB. The IBT's actions were part of a power struggle that began in mid-1993 after the Trustees wrote a memorandum expressing their alarm at the union's financial condition. The memo also offered proposals designed to reverse the union's annual spending deficits – proposals rejected out of hand by Ron Carey. From that point, cooperation between the GEB and the Trustees virtually ceased. The Subcommittee is hopeful that the newly elected Teamsters' leadership will bring to their offices a respect

¹⁵ Professor George Kannar did foresee potential problems with the EPC. In a 1993 article, he wrote that “[t]he second major danger connected with the EPC is that, like most union disciplinary proceedings, it could itself become politicized.” Kannar at 1683. Professor Kannar downplayed the likelihood of politicization in the short term by noting that “the IRB and the court are there to prevent the EPC from running amok by holding the EPC’s feet to the fire with respect to the conduct of its own affairs.” *Id.* He also argued that, “even untoward subjective motives on Carey’s or the EPC members’ part in the administration of union discipline would probably not have any untoward objective consequences in the IBT for quite a while” since, according to Professor Kannar, the targets of “even a ‘politicized’ EPC” would likely “be genuinely susceptible to charges of allegedly having engaged in ‘corrupt’ conduct.” *Id.* at 1684. It is unclear what Professor Kannar based this latter prediction on. Moreover, the Subcommittee rejects the Machiavellian notion that politically-motivated EPC investigations are somehow benign in cases where corruption is found.

for the independence and role of the International Trustees, and a sense that cooperation with the Trustees is in the best interest of the union as a whole.

The IBT's Financial Demise

When Ron Carey became IBT General President in February 1992, the net worth of the union exceeded \$150 million.¹⁶ During his tenure, the financial picture rapidly deteriorated. In 1994, the net worth of the country's largest labor union (not counting union-owned real estate) dropped below \$20 million triggering an emergency dues assessment on its rank-and-file members. The emergency funds boosted revenues by approximately \$17 million per year. But instead of using this money to replenish the union's coffers, IBT leadership spent sizable sums to expand the size of the IBT's Organizing Department and to increase the political involvement of the union.

As 1994 progressed, however, Ron Carey and his associates were facing a dilemma. Prolific spending caused the net worth to continue to plummet despite the emergency assessment. For political reasons, among others, Ron Carey did not want to begin his campaign for reelection overseeing an insolvent union. But at the same time, IBT leadership could not allow the union's net worth to rise substantially, lest it risk losing the additional revenues brought in by the emergency assessment. Thus, the union's leadership began to explore methods to improve the IBT's financial condition, while being careful not to let the net worth exceed \$25 million, which would have terminated the emergency assessment.

¹⁶ The net worth of the IBT on December 31, 1991 was \$153,825,248, according to the union's audited financial statements. As it is not possible for the Subcommittee to determine the IBT's exact net worth on February 1, 1992, this report generally cites the figure from one month earlier.

Information developed by the Subcommittee chronicles the decline in the Teamsters' net worth and shows how IBT leadership manipulated the discount rate of the Teamsters Affiliates Pension Plan ("TAPP") to achieve their goals. The Subcommittee also uncovered a self-serving and costly change made by IBT leadership to the Retirement and Family Protection Plan ("RFPP"), which benefited the officers and staff employed at IBT headquarters, at a time of serious financial difficulties. Finally, the Subcommittee investigated a strike in Detroit on which the Teamsters spent millions of dollars. Hampered, in part, by the lack of financial controls over these funds, the Subcommittee has been unable to determine whether these millions of dollars were spent solely for the benefit of IBT members or whether they were used for other purposes.

Significantly, as early as 1992, the Teamsters' leadership was alerted of the financial straits toward which the union was headed. The warning came from no less an authority than the IBT's court-appointed Independent Administrator, Frederick B. Lacey, who served as the ranking official under the 1989 Consent Order. As Independent Administrator, Judge Lacey had broad authority to scrutinize financial records and conduct investigations of the union. In his March 1992 report to Judge Edelstein, (who supervised the implementation of the Consent Order), Judge Lacey found a number of "fundamental faults" in the Teamsters' financial management system and recommended the following major corrective actions:

- (1) the implementation of a budget process;
 - (2) the development of a comprehensive financial policy and procedures manual;
- and

(3) the appointment of an inspector general.¹⁷

These recommendations were largely ignored, even as the IBT continued to sink into a financial abyss.

The Subcommittee has found that, at least in some respects, the IBT's independent auditor, Grant Thornton, LLP, failed to act upon rather obvious indicia of the union's financial problems. For example, Grant Thornton uncovered an internal Teamsters memorandum indicating that IBT leadership may have used general treasury funds to make a political contribution in potential violation of the Federal Election Campaign Act and the Internal Revenue Code. Yet, instead of investigating the issue further, or even raising it to the attention of IBT leadership, Grant Thornton did nothing.

Financial Reporting to the Department of Labor

Federal Law requires labor unions to file annual financial reports with the Department of Labor. These Labor Organization Annual Reports, known as LM Forms, are intended to allow rank-and-file union members, the Department of Labor, and the interested public to monitor union financial activities. Unfortunately, the current reporting regulations are insufficient and do not allow one to get a true picture of a union's finances. These regulatory shortcomings were exploited by the IBT to avoid disclosure of various benefits and expenses paid to union officials and other categories of expenditures. Union members and the public would be well served if Congress and the Department of Labor

¹⁷ U.S. v. IBT, 88 CIV. 4486 (DNE) (S.D.N.Y.) (*Summary Report of the Independent Administrator as of February 29, 1992* at 126-130) [Hereinafter referred to as the "Independent Administrator Report"].

would review the current laws on financial reporting to ensure that unions adhere to full disclosure standards.

Prolific Political Spending

It is no secret that the Teamsters made millions of dollars in direct contributions to Democratic Party candidates since 1992. Most of those donations came from the IBT's political action committee (the Democrat, Republican, Independent Voter Education Committee, or "DRIVE"). What is less well known is that IBT leadership used DRIVE funds to make millions of dollars in "soft-money" contributions to state Democratic parties, and that these DRIVE donations comprise only a part of the IBT's political action efforts.

Based on information the Subcommittee has developed, it appears that the IBT spent over \$18 million in members' dues on political action between 1991 and 1996 through donations to get-out-the-vote groups, advertising and publicity designed to elect sympathetic political candidates, and in salary and benefits paid to DRIVE staff members who worked full-time on various political campaigns. Over the same time period, the IBT borrowed nearly \$16 million, and the IBT's net worth dropped by approximately \$137 million. IBT Secretary-Treasurer Thomas Sever has stated that the spending splurge directly contributed to the IBT's near-bankruptcy in early 1997.¹⁸ As a result, it is questionable at best whether the IBT's political action efforts ultimately furthered the interests of rank-and-file members, and whether IBT officials lived up to the standards of

¹⁸ Letter from Thomas Sever to Ron Carey and the General Executive Board, January 27, 1996. Exhibit 5.

fiduciary responsibility outlined in the Labor-Management Reporting and Disclosure Act (“LMRDA”).

The Subcommittee’s investigation of IBT political efforts focused largely on the 1996 election cycle. However, the genesis of the Teamsters’ strategy for that cycle appears to date back to 1992, when the union revamped its political action efforts with the help of key Democratic consultants and President Clinton’s top political aide, Doug Sosnik. Since 1992, the Teamsters have cultivated close relationships with the Democratic National Committee, Citizen Action, the AFL-CIO, Project ’95, Labor ’96, Project VOTE, and other organizations that conduct election-related activity.

The fact that the Teamsters union played a major role in national politics – financially and otherwise – in the 1990s was not solely due to starry-eyed idealism; the IBT expected results from the politicians it supported. In the first General Executive Board meeting of the Carey administration, the Board pledged that the IBT would “offer its political and financial resources and work vigorously on behalf of officials who support the goals of this union and organized labor.”¹⁹ This pledge translated into millions of dollars of direct and indirect political support, almost exclusively for Democratic candidates and parties. But the support came with strings attached. For example, in one internal IBT memorandum obtained by the Subcommittee, Bill Hamilton explained what the IBT would do when those it supported failed to reciprocate with assistance to the union:

As you know, I have stopped all contributions to the Democratic Senate Campaign Committee because of the disappointing performance of Senate Democratic leaders, especially Democratic

¹⁹ Minutes of the International Brotherhood of Teamsters General Executive Board [Hereinafter referred to as “GEB Minutes”], February 3, 1992, at 22. Exhibit 6.

Leader Tom Daschle, on the FedEx vote two weeks ago just before they adjourned.

I was asked as recently as yesterday by Sen. Kerrey, chairman of the DSCC, to reconsider. He asked for \$500,000; I said no.²⁰

Another telling example of the assistance sought – even expected – by IBT leadership involved a bitter strike by Teamsters Local No. 601 of Diamond Walnut Growers, Inc. The strike, which began in September 1991 and continues today, soon became costly and embarrassing to IBT officials. The union simply could not seem to settle the strike. As a result, the Teamsters turned to the Clinton Administration for help, which is unremarkable except for two things. First, information developed by the Subcommittee suggests that the Teamsters' contributions to Democratic parties, candidates, and causes were designed to secure the sort of help it sought with the Diamond Walnut strike. In turn, it appears that the Clinton Administration – principally Deputy White House Chief of Staff Harold Ickes – may have attempted to cultivate IBT contributions by assisting the union with issues it found important, like the strike. Such motivations might well run afoul of federal law.

Second, information developed by the Subcommittee strongly suggests that Harold Ickes may have misled the Senate Committee on Governmental Affairs when asked in a deposition what the administration did regarding the Diamond Walnut strike. Indeed, Mr. Ickes failed during the deposition to mention that he persuaded his friend, then-U.S. Trade Representative Mickey Kantor, to call Diamond Walnut's president and put pressure on him to settle the strike. The Department of Justice conducted a preliminary inquiry to investigate whether Mr. Ickes perjured himself before the Governmental Affairs

Committee. On January 29, 1999, after five months of consideration, the Attorney General decided not to appoint an independent counsel to investigate this matter further. In her report justifying this decision, Attorney General Reno found that “there is clear and convincing evidence that Ickes did not intend to lie when he answered as he did in the course of his testimony.” Further, she concluded that “there are no reasonable grounds to believe that a successful prosecution of this matter might be possible, and that there are no reasonable prospects that further investigation would develop sufficient additional inculpatory evidence upon which a successful prosecution could be based.”²¹

In her decision, Ms. Reno ignores several key facts uncovered by the Subcommittee and minimizes the testimony of several witnesses. It is unfortunate that the Attorney General did not appoint an independent counsel to investigate this matter further.

Finally, the Subcommittee is investigating allegations of campaign finance improprieties relating to the 1995 gubernatorial race in Kentucky. From early indications, it appears that the Teamsters may have provided assistance to the Democratic candidate in that race in violation of state campaign finance laws. Specifically, the Teamsters allegedly spent more than \$60,000 in support of the Kentucky Governor Paul Patton’s 1995 campaign. These expenditures included the purchase of signs, buttons and banners in support of the Patton campaign, and the payment by the IBT and one of its local unions of the salary of a former Patton employee who continued to work in support of the Governor’s election. This matter is the subject of an ongoing criminal investigation in

²⁰ Memorandum from Bill Hamilton to Ron Carey, October 23, 1996. Exhibit 7.

²¹ *In re Harold McEwen Ickes*, United States District Court, District of Columbia Circuit, January 29, 1999.

Kentucky, which already has led to the indictment of two Patton aides and two IBT officials.

Summary of Conclusions and Recommendations

There is no obvious solution to the myriad problems identified by the Subcommittee thus far. Rather, the problems – largely found in the IBT’s internal operations and finances and in its questionable political activities – require a series of thoughtful measures, each designed to address a particular problem or problems.

The Subcommittee firmly believes that the solutions to the IBT’s problems must contemplate and work toward a union that governs itself, and not perpetuate the costly, uncomfortable and often combative relationship the union and the federal government now share while operating under the 1989 Consent Order. After nearly ten years of government oversight at the IBT, perhaps it is time for the federal government to evaluate the effectiveness of the Consent Order and whether there are better methods to address corruption in labor unions. At the same time, a review of current labor laws and the Department of Labor’s enforcement of them might be in order. Nevertheless, many steps separate the present situation from self-governance at the IBT, and they are steps that the newly elected leadership must initiate. The Teamsters’ leaders must demonstrate an unqualified willingness to be held accountable, and they must create structures to do so. The Subcommittee’s recommendations are intended to help the IBT reach this end. In brief, they include the following:

- Adopt a code of ethical conduct within the IBT Constitution or bylaws;
- Create and use a budget process and a comprehensive policies and procedures manual;

- Amend the IBT Constitution to grant International Trustees the right to review all financial records and attend all GEB meetings;
- Establish an inspector general similar to those found in most federal government agencies and granted the powers necessary to prevent and detect fraud, waste and abuse; and
- Establish an effective compliance program modeled after those recently adopted by organizations throughout the world.

These changes would move the Teamsters closer to true self-governance, a goal supported by all quarters and, more importantly, one that will benefit the rank and file.

CHAPTER II:
BACKGROUND: THE TEAMSTERS, THE ELECTION,
AND GOVERNMENT OVERSIGHT

A. Summary

The IBT operates under intensive government oversight as a result of being sued for racketeering by the federal government and agreeing to a 1989 Consent Order. As a result of this oversight, federal monitors discovered fundraising improprieties by the re-election campaign of IBT General President Ron Carey. The first public disclosure of questionable election activities came in a February 6, 1997 *Boston Globe* article describing a last-minute \$95,000 contribution to President Carey's 1996 campaign.²² Soon after this article appeared, the Election Officer for the International Brotherhood of Teamsters, Barbara Zack Quindel, commenced an investigation. On August 21, 1997, she ruled that there was substantial evidence of a complex network of schemes to funnel employer and IBT funds into Ron Carey's re-election campaign in violation of rules promulgated by the Election Officer. Ms. Quindel ordered a new election, which occurred in the final months of 1998.

Shortly after the Election Officer's August 21, 1997 decision, the Subcommittee began an inquiry into the circumstances surrounding the expenditure of approximately \$20 million of taxpayer funds for oversight of the invalidated Teamsters' election. On October 14-15, 1997, the Subcommittee first held public hearings on the invalidated election. As

²² Joann Muller, *Hoffa Camp Seeks Investigation of Carey Contributions; Boston Woman's \$95,000 Was Top Gift From Last-Minute Donors*, *Boston Globe*, February 6, 1997, at C2.

part of its investigative efforts, the Subcommittee held ten additional hearings during the next twelve months.

The Subcommittee focused initially on the activities underlying the union's 1996 election. As it gathered evidence, the Subcommittee investigated related matters, including the union's organization, governance, and financial and political activities.

B. History and Organization of the IBT

1. A Brief History

The International Brotherhood of Teamsters had its beginnings in 1898, when the President of the newly formed American Federation of Labor ("AFL"), urged horse team drivers to attend the AFL Convention. Thereafter, the AFL chartered the Team Drivers International Union. In 1902, another union, the "Teamsters National Union," was formed; in 1903 the two unions merged to form the "International Brotherhood of Teamsters, Chauffeurs, Stablemen and Helpers." In 1940, the name was changed to delete "Stablemen" and add "Warehousemen."

In many ways, the fate of the IBT's last six presidents personifies the union's troubled history:

- Teamsters President David Beck was convicted in 1957 for embezzlement and federal income tax violations.²³ He was replaced by James R. Hoffa. Also in 1957, a Senate investigation explored Hoffa's alleged ties to organized crime. As a result of these developments, AFL-CIO members voted to expel the International Brotherhood of Teamsters.
- James R. Hoffa was convicted of jury tampering and mail fraud in 1964 and sentenced to 13 years in federal prison.²⁴ After his appeals were exhausted, he entered prison in

²³ Glenn Burkins, *Teamsters Leaders Head for Showdown*, Wall Street Journal, July 12, 1996, at A2.

²⁴ Id.

1967. In 1971, President Nixon commuted Hoffa's sentence but barred him from union activities for 10 years. Nevertheless, Hoffa was fighting to regain the union presidency when he disappeared in 1975.

- Frank Fitzsimmons, president of the Teamsters from 1971 to 1981, was cited in a federal racketeering suit as being controlled by organized crime.²⁵
- Teamsters President Roy Williams and four co-conspirators were convicted in 1982 for plotting to bribe Sen. Howard Cannon, D-Nev., and for defrauding the union's pension fund.²⁶
- The President's Commission on Organized Crime in 1986 found that Williams and Hoffa had been "direct instruments of organized crime." The report also showed that Teamsters President Jackie Presser encouraged violence against fellow Teamsters, and during the same year, Presser was indicted for payroll padding. He died in 1988 before going on trial.²⁷
- William McCarthy, president of the Teamsters from 1988 to 1992, was implicated by federal monitors in a scheme that improperly funneled IBT printing work to a business tied to his family.²⁸
- Ron Carey, president from 1992 through 1997, was the first democratically elected president of the Teamsters. Federal monitors invalidated his 1996 re-election and disqualified Carey from being a candidate in a rerun of the election due to illegal contributions made to his campaign. The Independent Review Board later barred Carey from the union for life.

In June 1988, the U.S. Department of Justice ("DOJ") filed a civil lawsuit against the Teamsters under the Racketeer Influenced and Corrupt Organizations Act ("RICO"), alleging that the union was "a wholly owned subsidiary of organized crime."²⁹ On March 14, 1989, the Teamsters settled the lawsuit agreeing to unprecedented reforms in the union. A Consent Order memorializing the settlement addressed three basic areas of

²⁵ Id.

²⁶ Id.

²⁷ Id.

²⁸ Id.

²⁹ United States of America v. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Order, 88 Civ. 4486 (DNE) (S.D.N.Y.) [Hereinafter referred to as "Consent Order" or "Consent Decree."].

reform: investigations, elections and the establishment of a review board.³⁰ The full scope of the Consent Order is discussed later in this chapter.

2. The IBT's Structure

Several union offices share governing authority at the International Brotherhood of Teamsters. As described in the Teamsters Constitution, the “supreme governing authority” is the International Convention, which is held every five years.³¹ Convention delegates from union locals have the authority to amend the Constitution, enact resolutions, and set union policy.³²

Administration of the Teamsters between International Conventions rests with the General President, the General Secretary-Treasurer, and the other members of the General Executive Board.³³ The President has broad authority to manage the operational affairs of the headquarters operation, to appoint staff and field representatives, and to expend funds to support salaries and operations.³⁴ In addition, “[t]he General President shall have the authority to make expenditures from the general fund in amounts to be determined by him in his sole discretion for lobbying and other political purposes including contributions to candidates for state, provincial and local offices if such contributions are not prohibited by state, provincial or local law.”³⁵ The Secretary-Treasurer has specific responsibilities to conduct all financial correspondence of the IBT, to execute all documents related to

³⁰ Id.

³¹ International Brotherhood of Teamsters Constitution [Hereinafter referred to as “IBT Constitution”], Art. III, Sect. 1.

³² Id.

³³ Id. at Arts. VI, VII, IX.

³⁴ Id.

³⁵ Id. at Art. VI, Sect. 9.

investments, to keep a correct record of all board meetings, and to make payments from the General Fund. The General Executive Board has such powers and duties not otherwise delegated to the General President or the General Secretary-Treasurer.³⁶ The General Executive Board has some responsibility to approve expenditures, resolutions, or other actions. Such approval can be, and frequently is, obtained by telephone conference or through polling over the TITAN network, the IBT's internal computer and e-mail system.

Pursuant to the Consent Order, the union held an International Convention in 1991, which adopted a new Constitution and nominated candidates for an election of officers to be held later that year. The elections marked the first time that IBT officers were chosen by a direct vote of the union's members. On February 1, 1992, the newly elected officers were sworn into office, having campaigned for election as part of the same slate (or ticket), known as the "reform slate." They were:

- Ron Carey: General President,
- Tom Sever: General Secretary-Treasurer,
- Aaron Belk: Southern Conference Vice President,
- James A. Benson: At-Large Vice President,
- Leroy Ellis: Central Conference Vice President,
- Gene Giacumbo: Eastern Conference Vice President,
- Tom Gilmartin, Jr.: Eastern Conference Vice President,
- Diana Kilmury: At-Large Vice President,
- Louis Lacroix: Canadian Conference Vice President,
- Ken Mee: Western Conference Vice President,
- Doug Mims: Southern Conference Vice President,
- John P. Morris: Eastern Conference Vice President,
- Mario Perrucci: At-Large Vice President,
- John Riojas: At-Large Vice President,
- Thomas Michael Shay: Western Conference Vice President,
- Dennis C. Skelton: Central Conference Vice President,
- Sam Theodus: At-Large Vice President,
- Charles Thibault: Canadian Conference Vice President, and

³⁶ Id.

- Bill Urman: Central Conference Vice President.

The union has three other international officers, the International Trustees, who are not members of the GEB. The 1991 IBT Constitution defines their duties as follows:

The Trustees shall review the books of the General Secretary-Treasurer once during each six-month period, utilizing the assistance of Certified Public Accountants designated by the General President, and report their findings immediately to the General President, and he shall, in turn, report to the General Executive Board. Such review of the books of the General Secretary-Treasurer shall include the books respecting all properties and facilities under the custodianship of the General Secretary-Treasurer. A copy of such semi-annual reports of the Trustees shall be furnished to the members of the General Executive Board. In the event of the unavailability or disability of one Trustee, the remaining two Trustees shall perform the duties set forth herein.³⁷

The Court-Appointed Officers

As noted above, the government and the IBT settled the RICO suit in 1989 by agreeing to a Consent Order, recognizing that its primary purpose was to ensure “that the IBT, as the largest trade union in the free world, be maintained democratically, with integrity and for the sole benefit of its members and without unlawful outside influence.”³⁸ First, the Consent Order established direct elections for International Union officers. Second, the Consent Order provided the framework for supervision of the IBT and its operations by the government and its agents that was far more extensive than that provided by federal statute or case law. As part of its relief, the government sought the

³⁷ Id. at Art. VIII.

³⁸ Consent Order at 2.

appointment of “one or more court liaison officers” to discharge certain duties of the IBT General President and the General Executive Board.³⁹

Under the Consent Order, federal supervision of the IBT was divided into two phases. The first phase required strong, proactive government involvement in the IBT’s activities to rid the IBT of corrupt influence and pave the way for its first democratic election in 1991. To achieve these goals, the Consent Order provided for the appointment of three officers: the Independent Administrator (“IA”), the Election Officer (“EO”), and the Investigations Officer (“IO”). The Election Officer had the authority to supervise the 1991 election and to take steps necessary to ensure that it was conducted in a free and fair manner.⁴⁰ The Investigations Officer had the authority to investigate corruption within the IBT and recommend charges to the Independent Administrator.⁴¹ The Independent Administrator had the authority to mete out appropriate punishment, including expulsion from the union, and to veto any IBT financial transaction that would further or constitute racketeering activity.⁴² By 1991, the IA had adjudicated charges against more than 150 individuals; through October 20, 1993, more than 229 people had faced IA charges.⁴³

The second phase of the Consent Order relegated the government to a more reactive position. A three-member Independent Review Board (“IRB”) replaced the IA and the IO in October 1992. The IRB employs an investigations officer, who presents written investigation reports to the IRB but does not exercise the same prosecutorial authority as did the Investigations Officer during the first phase of the Consent Order. In

³⁹ Id. at 3.

⁴⁰ Id.

⁴¹ Id.

⁴² Id.

⁴³ Frederick B. Lacey, *Docket of the Independent Administrator*, October 20, 1993. Exhibit 8.

addition, the IRB does not have the authority to veto financial transactions.⁴⁴ From 1992 to 1997 the IRB recommended the following:

- trusteeships for twenty locals and one joint council;
- ten charges against members for associating with known organized crime officials;
- twenty charges of breaches of fiduciary duty by local officials;
- at least nine charges against members holding International positions (including Ron Carey and William Hamilton);
- eight charges for extortion; and
- eighty-two charges of embezzlement and other financial wrongdoing.⁴⁵

Also, during the second phase of the Consent Order, the government had the option of having an Election Officer supervise the 1996 election.

The Independent Financial Auditor

Following Mr. Carey's decision to take a leave of absence from the IBT due to disclosure of questionable fundraising activities related to his re-election campaign in 1997, the U.S. Department of Justice and the IBT agreed to retain an Independent Financial Auditor ("IFA"). Under the interim agreement signed by DOJ and the IBT, the IFA had the authority:

to review any expenditure or proposed expenditure of IBT funds or transfer of IBT property and to review any proposed contract entered into on behalf of the IBT (other than a collective bargaining agreement) and to veto any such expenditure, transfer or contract whenever the Independent Financial Auditor reasonably believes that such expenditure, transfer or contract would constitute or further an

⁴⁴ Consent Order at 9.

⁴⁵ U.S. v. IBT, 88 CIV 4486 (DNE) (S.D.N.Y.) (Five-Year Report of the Independent Review Board), October 28, 1997, at 2-15. The IRB also recommended charges against eight members for obstruction of IRB investigations.

unlawful act or violation of the IBT Constitution or would otherwise constitute or further fraud or abuse of IBT funds or property.⁴⁶

The IBT and the DOJ agreed upon the accounting firm of KPMG Peat Marwick to serve as the IFA.⁴⁷ The Subcommittee has endeavored, through correspondence and a public hearing, to clarify the role of the IFA and to ensure that KPMG has performed adequately. After some initial uncertainty, the Department of Justice has since assured the Subcommittee that KPMG has been active and has functioned smoothly as outlined by the Interim Agreement. As of December 8, 1998, “the IFA has reviewed more than 77,000 proposed expenditures by the International Union, including more than 57,000 proposed expenditures from the union’s Strike Fund, more than 9,000 proposed expenditures from the union’s General Fund, and more than 2,200 proposed expenditures from the union’s political action (“DRIVE”) fund.”⁴⁸ According to the Department of Justice, “the IFA routinely questions and scrutinizes proposed expenditures and does not release questionable expenditures for payment before determining that the standards of the Interim Agreement are satisfied.”⁴⁹ Further, “[b]ecause the IBT knows that the IFA may review each and every expenditure of International Union funds, the presence of the IFA serves in and of itself as a deterrent to the misuse of resources.”⁵⁰

Despite these assurances from the DOJ, the Subcommittee believes that there are ways to further improve the functioning of the Independent Financial Auditor. For

⁴⁶ Interim Agreement Between the U.S. and the IBT, November 21, 1997, para 3. Exhibit 9.

⁴⁷ The Subcommittee learned that, when KPMG Peat Marwick was selected, neither the IBT nor KPMG disclosed to the government that the firm had worked for the Teamsters in 1994, performing services related to the dissolution of the Area Conferences. Telephone conversation between Michael D. Bopp and Faith Burton.

⁴⁸ Letter from Mary Jo White to Chairman Pete Hoekstra, December 8, 1998. Exhibit 10.

⁴⁹ Id.

example, the IFA should be given the authority to review certain disbursements at the local union level. This would permit the IFA to trace funds that flow from the IBT to the locals and act as an additional deterrence. The IFA should also be given the authority to review pension plan disbursements. Finally, the IFA should be permitted to conduct a detailed review of the IBT's internal control procedures.

C. Labor Racketeering

The infiltration of organized crime elements into the labor movement dates back to the 1930s. Organized crime elements, particularly La Cosa Nostra ("LCN") families, recognized the value of controlling labor organizations and moved to fill key positions in local labor unions with LCN members and close associates. Although no area of the United States is exempt from elements of organized crime, organized crime control of labor unions has been concentrated within LCN-dominated areas, such as New York City, Buffalo, New Jersey, Philadelphia, Pittsburgh, Cleveland, Chicago, and Kansas City. Nor is any labor organization immune from organized crime's attempts at infiltration and control. The FBI has obtained significant information linking organized crime to racketeering enterprises. For example, in a FBI recorded conversation with one of his associates, Paul Castellano, boss of the Gambino crime family, said, "our job is to run the unions."⁵¹

Such control of labor unions provides the ability to obtain vast sums of money by several illegal means, such as extorting trades and businesses, placing friends and relatives

⁵⁰ Id.

on payrolls in “ghost” positions, and making large loans which are never repaid. The Chicago Crime Commission, in a 1997 report, cited the following 14 scenarios as occurring on a day-to-day basis in labor unions influenced by organized crime:

- Corrupt union officials grant concessions to favored companies, allowing them to enter the lowest bid (Concessions might include permitting a contractor to avoid paying overtime or benefits or to shortchange work safety requirements. Typically, the corrupt union officer, the contractor and the organized crime member will split the savings);
- Union officials funnel contracts to organized crime owned businesses;
- Union officials accept money from employers to prevent a strike or to resolve disputes between workers and employers;
- An employer pays corrupt union officials to avoid signing a collective bargaining agreement;
- Corrupt union leaders make loans to themselves or to organized crime figures from union pension, health and welfare or strike funds that are never repaid;
- Contractors are extorted by members or associates of organized crime who are working in union jobs (Organized crime, with the help of compliant union officials and workers, can slow down work or delivery of supplies);
- Corrupt union leaders allow family or organized crime members to be ghost employees;
- Union stewards control who works (In some unions, organized crime-connected workers get more work than other union members);
- Pension and health and welfare fund trustees, many of which are union officials, are influenced by organized crime members in investment decisions, or make personally advantageous investment decisions;
- Union officials dole out jobs or special privileges to obtain support for their re-elections;

⁵¹ *Labor Management Racketeering: Hearing Before the Permanent Subcomm. on Investigation, Senate Comm. on Governmental Affairs, 95th Cong., 2nd Sess, (1978) at 25 [Hereinafter referred to as “PSI Hearing.”].*

- Corrupt union officials deny members access to benefits unless they contribute to union political campaign funds;
- Organized crime controlled unions make significant campaign contributions and mobilize large numbers of union members for political campaign activities, leaving even the most honest politician beholden to a crooked union official;
- Organized crime uses fear and violence to dissuade honest union members from running for office;
- Organized crime controlled unions use work sites to promote illegal gambling and loan sharking activities.⁵²

This list is by no means exhaustive.

For many years, the government has been concerned about the organized crime/labor connection. As early as the 1950s, Senate committees reviewed the labor union activities of the LCN, particularly as they related to the International Brotherhood of Teamsters and its President James R. “Jimmy” Hoffa. The Senate Permanent Subcommittee on Investigations conducted similar hearings twenty years later. During those hearings, then U.S. Attorney General Benjamin Civiletti called labor racketeering “a serious national problem.”⁵³ Accordingly, the FBI has developed programs for combating organized crime infiltration of labor unions. In 1975, for example, the FBI began UNIRAC (“Union Involved Racketeering”), a significant investigation of organized crime infiltration and control of the International Longshoreman’s Association (“ILA”). This eight-year investigation graphically demonstrated that organized crime did, in fact, control the ILA and used it to create a criminal monopoly in the waterfront industry.⁵⁴ In another significant undertaking, the FBI targeted a massive kickback scheme in the IBT Central

⁵² Chicago Crime Commission, *The New Faces of Organized Crime*, 1997, at 2, 24.

⁵³ PSI Hearing at 9.

⁵⁴ Subcommittee staff interviews with former FBI Special Agents who actively participated in this investigation.

States Pension Fund. This case, code named “PENDORF,” centered on the illegal activities of Alan Dorfman, the Central States Pension Fund fiduciary.⁵⁵

On July 28, 1983, President Reagan established the President’s Commission on Organized Crime (“PCOC”).⁵⁶ Although the PCOC’s investigation into organized crime was wide ranging, a large portion focused on labor racketeering at the following labor unions: the IBT, the International Longshoremen’s Association, the Hotel Employees and Restaurant Employees International Union (“HEREIU”), and the Laborers International Union of North America (“LIUNA”). These unions, known as the “big four,” were found by the FBI to be “substantially influenced and/or controlled by organized crime.”⁵⁷ The seriousness of organized crime control of labor unions was recognized by former FBI Director William Webster,⁵⁸ who compared labor racketeering to “organized crime in international drug traffic,” both of which “do great damage to our society.”⁵⁹

Civil RICO: an Effective Tool in Combating Organized Crime

In the early 1980s, the U.S. Department of Justice began using the civil provisions of the Racketeer Influenced and Corrupt Organizations Statute, Title 18 USC §1964, to combat LCN influence within the labor movement. This new technique proved to have a significant effect in the government’s war against organized crime and its infiltration of

⁵⁵ Id.

⁵⁶ Executive Order 12435, July 28, 1983.

⁵⁷ *Labor Violence and the Hobbs Act: Hearings on S. 462 before the Senate Judiciary Committee, 98th Cong., 1st Sess. at 208 (1983-84).*

⁵⁸ William Webster is currently a member of the IRB.

⁵⁹ *The Federal Enforcement Perspective: Hearings before the President’s Commission on Organized Crime, November 29, 1983, at 63-64.*

labor unions. The first union to be sued under civil RICO was IBT Local 560 in 1982.⁶⁰ As a result of the suit, a federal court appointed a trustee to oversee the local, and, ten years later, a court-approved Consent Decree re-organized the Local 560 executive board.

Following the Local 560 suit, DOJ has filed thirteen more civil RICO complaints, all of which resulted in consent decrees. All told, these fourteen consent decrees extended government oversight to two international unions, two district councils, and ten local unions; six involved the IBT and its local unions.⁶¹ These consent decrees aimed at eliminating organized crime influence and corruption. In addition, the consent decrees provided for varying degrees of monitoring of the union electoral process, ranging from clearing candidates to direct monitoring of elections and vote counting. As discussed in the previous section, in the case of the IBT, the 1989 Consent Order required unprecedented reforms in the union.

D. The 1996 Election of Officers at the IBT

Under the Consent Order, the court appointed Michael Holland as Election Officer to supervise the 1991 election of union officers, at union expense. In October 1989, the District Court concluded that the Election Officer's duty to supervise the 1991 election was "expansive and proactive," giving the Election Officer a "broad mandate to intervene in, and coordinate, the electoral process up to and including the next general convention."⁶² The Consent Decree also gave the United States government the option to have the Election Officer "supervise," at the government's expense, the union's 1996

⁶⁰ Letter from Andrew Fois to Chairman Hoekstra and Chairman Fawell, January 14, 1998. Exhibit 11.

⁶¹ Id.

election. According to the DOJ, “there was a real risk that organized crime would attempt to influence the 1996 election. Unsuccessful attempts at such influence were made in 1991 and the Department had been apprised by government informants of both the importance of the IBT to the organized crime families and of the intended efforts to regain control of the IBT in the 1996 election.”⁶³ Consequently, the government exercised its option to oversee the 1996 election, and used approximately \$17.9 million in taxpayer dollars to fund the process.⁶⁴

1. The Contribution Swaps

No example of the need for attentive government oversight of major unions is more powerful than the saga of the IBT’s 1996 election. Nearly two months after the 1996 Teamsters’ election, James P. Hoffa, the losing IBT presidential candidate, filed a protest alleging that the winning campaign of Ron Carey had received improper contributions.⁶⁵ The Election Officer, Barbara Zack Quindel, launched an investigation of those allegations. Six months later, Ms. Quindel issued a decision invalidating the election results. She found that allies of Mr. Carey had used a “complex web of schemes” to funnel IBT and employer funds to his re-election campaign.⁶⁶

In her decision, the Election Officer noted that Carey campaign consultants were concerned that Mr. Hoffa was raising more money than Mr. Carey was, and that Mr.

⁶² U.S. v. IBT, 723 F.Supp. 203, 206 (S.D.N.Y. 1989).

⁶³ *Hearing on Invalidated 1996 Teamster Election*, Subcomm. on Oversight and Investigations of the House Comm. on Education and the Workforce, 105th Cong., 1st Sess., October 15, 1997 at 252 [Hearings held by this Subcommittee are hereinafter referred to as “O&I Hearings”].

⁶⁴ See, generally, O&I Hearing, May 19, 1998. The Subcommittee notes that the figure is reported by other sources to have exceeded \$20 million; however, the \$17.9 million figure was provided by U.S. Department of Justice officials responsible for overseeing the election.

Carey would lose “without enough money.”⁶⁷ The two consultants, Martin Davis and Michael Ansara,

...began discussing the general notion of looking at political donors who cared about the 1996 congressional elections. The idea would be to convince these donors that by contributing to Mr. Carey’s campaign, they could insure that the IBT under Mr. Carey’s direction would assist the get-out-the-vote (“GOTV”) efforts of certain congressional candidates favored by the donors.⁶⁸

The two men, with the help of Charles Blitz, a liberal activist and fundraiser, enticed several wealthy individuals to donate a total of \$227,500 to Teamsters for a Corruption Free Union (“TCFU”), a fundraising committee established by the Carey campaign.⁶⁹ In exchange for those contributions, the Teamsters donated \$475,000 to the Campaign for a Responsible Congress,⁷⁰ a group affiliated with Citizen Action;⁷¹ \$175,000 to Project VOTE,⁷² and \$85,000 to the National Council of Senior Citizens (“NCSC”).⁷³ A subsequent decision of the Election Officer reported an additional swap involving a \$150,000 contribution from the IBT, through the AFL-CIO, to Citizen Action.⁷⁴

The U.S. Attorney for the Southern District of New York (“Southern District”) also opened a criminal investigation into these and other allegations against the Carey campaign. One month after the Election Officer’s decision, the Southern District filed

⁶⁵ Quindel Decision at 5.

⁶⁶ Id.

⁶⁷ Id. at 68.

⁶⁸ Id.

⁶⁹ Id. at 70-71.

⁷⁰ Id. at 73.

⁷¹ Id. at 70.

⁷² Id. at 74.

⁷³ Id.

⁷⁴ Conboy Decision at 18-26. AFL-CIO Secretary-Treasurer Richard Trumka asserted his right against self-incrimination rather than testify before the Subcommittee on this matter. See, Exhibit 1.

Criminal Informations against Jere Nash, Mr. Carey’s campaign manager;⁷⁵ Martin Davis, the Carey campaign fundraising consultant;⁷⁶ and Michael Ansara, the Carey campaign telemarketing consultant.⁷⁷

Those Informations, which are often filed in lieu of an indictment when defendants are cooperating with prosecutors, revealed another contribution swap involving “Plans to Swap IBT Funds in Exchange for the [Democratic National Committee] Raising Money for the Carey Campaign.”⁷⁸ The charges listed six “Overt Acts” committed by the DNC in furtherance of the contribution swap plan.⁷⁹

Mr. Nash, in an affirmation filed with the criminal information, also tied the Clinton-Gore campaign to the contribution swap as follows:

...In or about Spring 1996, I learned from Martin Davis that he had spoken with a representative of the Clinton/Gore re-election campaign and told the Clinton/Gore Representative that he, Martin Davis, would help raise large amounts of money from the IBT for the Democratic National Committee in return for the DNC finding donors for the Carey re-election campaign...In connection with this plan, Davis asked me to have Mr. Carey call the Clinton/Gore Representative to encourage him to find donors for the Carey campaign. At a subsequent time, pursuant to Davis’s request, I asked Mr. Carey to call the Clinton/Gore Representative to thank him for his help with fundraising for the campaign, and was later told by Mr. Carey that he had called and left messages for the Clinton/Gore Representative.⁸⁰

A subsequent decision of the Election Officer revealed that the “Clinton/Gore

⁷⁵ U.S. v. Jere Nash, Information, September 16, 1997 (S.D.N.Y.).

⁷⁶ U.S. v. Martin Davis, Information, September 16, 1997 (S.D.N.Y.).

⁷⁷ U.S. v. Michael Ansara, Information, September 16, 1997 (S.D.N.Y.).

⁷⁸ Nash, Davis, Ansara Informations at 12-14.

⁷⁹ Id. at 20-21.

⁸⁰ U.S. v. IBT, 88 Civ. 4486 (DNE) (S.D.N.Y.), Affirmation of Jere Nash, November 15, 1997, at 1-2. The Subcommittee was unable to question Mr. Carey about this phone call to Terry McAuliffe, the Clinton/Gore representative referred to by Jere Nash. After being subpoenaed for a deposition, Mr. Carey invoked his Fifth Amendment right and declined to testify.

Representative” likely was Terry McAuliffe, who at the time was in charge of special fundraising projects for the Clinton-Gore campaign.⁸¹ During his allocution, Mr. Davis described the scheme involving the DNC and the Clinton-Gore campaign as follows:

In the spring and summer of 1996, I informed individuals, including a former official of the Clinton-Gore ‘96 Re-election Committee and the Democratic National Committee, that I wanted to help the DNC with fundraising from labor groups including the Teamsters. I told them that I wanted to help them receive more money from the Teamsters than they originally anticipated. I also asked them if they could help Mr. Carey by having the DNC raised [sic] \$100,000 for the Carey campaign. The people I was dealing with agreed to try to find a contributor for the Carey campaign.

...In June 1996 I forwarded to the Teamsters a fax from the DNC requesting that the Teamsters make contributions to certain state democratic parties totaling more than \$200,000. Within the next few weeks, I was informed by either the Clinton-Gore Committee or the DNC that they identified a donor who was willing to give \$100,000 to the Carey campaign through Teamsters for a Corruption Free Union. However, counsel to the Carey campaign informed me that this person was an employer and could not contribute to the Carey campaign.

...In or about August 1996 I received from the DNC a request for contributions totaling approximately \$1 million from the Teamsters. I forwarded that memo to the Teamsters Director of Government Affairs and told him that I would let him know when the DNC fulfilled its commitment to raise the \$100,000 [for the Carey campaign].

In early October 1996, a Clinton-Gore official asked if I would attempt to raise \$500,000 from the Teamsters for an entity that was a joint fundraising effort of the Democratic National Committee, the Democratic Senatorial Campaign Committee and the Democratic Congressional Campaign Committee. It was understood between us that he and others would try to identify a person who would contribute a hundred thousand dollars to the Carey campaign. Ultimately, no such donations were made.⁸²

⁸¹ Conboy Decision at 6-7, 10.

In April 1998, William Hamilton, the former Government Affairs Director for the Teamsters, was indicted on criminal charges related to the contribution swap schemes.⁸³ One of the specific allegations against Mr. Hamilton relates to the contribution swap involving the DNC. As with the earlier criminal informations filed by the Southern District, the indictment against Mr. Hamilton lists nine “DNC Overt Acts” committed in furtherance of the swap scheme.⁸⁴

The Southern District has filed Criminal Informations against two other individuals who pled guilty to charges related to their roles in the contribution swaps – Charles Blitz and Nathaniel Charny. Charles Blitz raised money for Citizen Action and participated in the contribution swap involving the Campaign for a Responsible Congress.⁸⁵ Nathaniel Charny, an attorney for the law firm representing the Carey campaign, acknowledged providing false and misleading information to the Election Officer.⁸⁶

2. Other Corruption and Misuse of IBT Resources During the 1996 IBT Election

The Labor-Management Reporting and Disclosure Act of 1959 provides that every union member in good standing shall have the right to vote for or otherwise support the candidate of his choice without being subject to penalty, discipline, improper influence, or reprisal by the union or any member thereof.⁸⁷ The IBT is subject to additional rules, established by the IBT Election Officer, to help assure fair and democratic IBT elections,

⁸² U.S. v. Martin Davis and Michael Ansara, Appearance Before Hon. Denny Chin (S.D.N.Y.), September 18, 1997, at 25-27 [Hereinafter referred to as “Allocution.”]

⁸³ Hamilton Indictment.

⁸⁴ Id. at 20-21.

⁸⁵ See, generally, U.S. v. Charles Blitz, Information (S.D.N.Y.)

⁸⁶ See, generally, U.S. v. Nathaniel Charny, Information (S.D.N.Y.)

which prohibit the use of IBT resources for election purposes. Notable provisions of the Election Rules state:

- union members can support or oppose any candidate, and willingly make personal campaign contributions;
- no candidate or member may campaign during his/her working hours;
- IBT officers, employees and members can campaign during paid vacation time, paid lunch hours, breaks or similar time off;
- no union funds or other things of value shall be used, directly or indirectly, to promote the candidacy of any individual; and
- union funds, facilities, equipment, personnel, etc. may not be used to assist campaigns unless the union is compensated at fair market value of such assistance and unless all candidates are provided equal access.⁸⁸

Despite these restrictions, there were numerous allegations of rules violations involving the 1996 Ron Carey campaign, including Teamsters being pressured to provide financial and personal assistance and IBT employees campaigning on union time.⁸⁹

Several rank-and-file Teamsters testified before the Subcommittee that they were pressured to work for and/or contribute to the Carey campaign during the 1996 IBT election.

For example, Wesley Coleman, an International Representative, testified that he was “told [by Bob Muehlenkamp, the IBT’s Organizing Director] it would be in his best interest to give a donation to the Ron Carey reelection campaign or to buy raffle tickets.

⁸⁷ Labor Management Reporting and Disclosure Act of 1959, As Amended, Title IV, § 401(e), (29 U.S.C. § 401(e)).

⁸⁸ See, generally, *Rules for the 1995-1996 International Brotherhood of Teamsters International Union Delegate and Officer Election*, Election Officer for the International Brotherhood of Teamsters, 1995.

By doing so I would help assure a chance for a full-time job. And if Ron Carey did not win, we could all lose our jobs.”⁹⁰ Mr. Coleman also stated that IBT officials and/or employees had called him from the union’s headquarters, informing him “how to assist the campaign when working [for the IBT] out of town.”⁹¹ In addition, Mr. Coleman said that he received hats and raffle tickets for the Carey campaign, and alleged that “IBT staff were working on...making [Carey] campaign literature during working hours.”⁹²

Barbara Dusina, an IBT International Organizer, testified that she “was required to...contribute \$50 per month for 9 months. There was an unspoken message that if any staff person did not contribute, they would be unemployed after a Carey victory. The suggested amount was \$100 per month. Along with the required monthly contribution, on at least three or four separate occasions I was also expected to buy fund-raising tickets.”⁹³ Ms. Dusina stated that before taking a trip to Washington on union business, she received numerous phone calls regarding a fundraising event for Mr. Carey.⁹⁴ When she declined to attend the event, Ms. Dusina said the caller told her “perhaps you should reconsider your priorities...Ron [Carey] really needs the money, and if Hoffa wins, you will be gone.”⁹⁵

Similarly, Vince Hickman, an IBT International Representative, testified that he was pressured to make campaign contributions.⁹⁶ Mr. Hickman also stated that he was prevented from hiring a certain individual for a position in the Airline Division because

⁸⁹ The Subcommittee notes that there were also allegations of rules violations against IBT employees associated with the Hoffa campaign. Formal protests filed by both campaigns were adjudicated by the Election Officer.

⁹⁰ O&I Hearing, October 14, 1997, at 17.

⁹¹ Id.

⁹² Id.

⁹³ Id. at 19.

⁹⁴ Id.

⁹⁵ Id.

⁹⁶ Id. at 13-14.

that person had “filed a complaint with the election officer” and was also a supporter of Mr. Hoffa.⁹⁷

The Nash Memo

Another set of allegations about misuse of union resources by the Carey campaign relates to a document that has come to be known as the “Nash Memo.” In January 1997, shortly after Ron Carey was re-elected IBT President, he asked his campaign manager, Jere Nash, for help during the transition. During a discussion about possible changes to be made in executive positions, Mr. Carey asked Mr. Nash for a memo describing what IBT employees had done for his re-election campaign. Mr. Nash responded with a “Highly Personal & Confidential” memo, which listed IBT employees and depicted how those named employees helped the campaign.⁹⁸

One of the IBT employees Nash cited as being “most active from the building” was Rick Bank, who in 1996 was the Special Counsel to the President. Mr. Nash wrote that Mr. Bank “served as the building coordinator for the campaign: made sure everything we needed got done, kept everyone informed about the campaign. This included the GOTV (get out the vote) rallies, all the publications, the 401k program, the Education

⁹⁷ Id. at 14. The Subcommittee notes that a National Labor Relations Board administrative law judge found that the Teamsters committed an unfair labor practice by discharging the person in question, Kenneth Daugherty, because of his support for Mr. Hoffa during the 1996 election. See, generally, International Brotherhood of Teamsters and Kenneth Daugherty, JD-99-98 (Washington, D.C.), 7-CA-39622.

⁹⁸ Memorandum from Jere Nash to Ron Carey, January 27, 1997 [Hereinafter referred to as the “Nash Memo”]. Exhibit 12.

Department activities, and the political grassroots program.”⁹⁹ A few of the others noted as “most active” included:

- Coleen Dougher, a staff assistant, who “raised tons of money, coordinated fundraisers, and was on the road during the last two months of the campaign;”¹⁰⁰
- Betty Grdina, a Staff Attorney, who “raised lots of money; was the contact person for Canada and handled all the building programs related to Canada; traveled [sic] extensively throughout Canada during the last three months of the campaign;”¹⁰¹
- Bill Hamilton, then Director of the IBT Government Affairs Department, who “did whatever we asked; assigned staff throughout the country to the campaign, raised money, and in the last month of the campaign used his staff to stay in touch with the friendly local leaders all over the country;”¹⁰² and
- Christy Hoffman, a staff attorney, who “raised money; was the campaign’s point of contact with UPS locals all over the country; helped to schedule Ken Hall’s time on the road. Always volunteering at the office.”¹⁰³

Regarding the campaign efforts of Joanie Parker, an IBT Labor Education Coordinator, Mr. Nash wrote that we “could not have asked for a stronger, more committed campaigner; [she] raised over \$30,000 for the campaign; lived full-time in Southern California then Chicago during the last three months; [and] coordinated outreach to the women, black and Hispanic communities.”¹⁰⁴ In the “Active from the Building”¹⁰⁵ category, Mr. Nash identified John Braxton, an IBT Labor Education Coordinator, who “volunteered to work in Pennsylvania during the closing weeks of the campaign when we

99 Id.
100 Id.
101 Id.
102 Id.
103 Id.
104 Id.
105 Id.

realized we had a problem there.” Mr. Nash also cited Jack Barmon, because he “campaign[ed] fulltime, on the road, in the last month of the campaign.”¹⁰⁶

The Subcommittee notes that the IBT leadership did not seem to be interested in determining whether its own employees violated the election rules during the 1996 election. Testifying before the Subcommittee, Acting General President and General Secretary-Treasurer Thomas Sever was asked whether he had investigated allegations of inappropriate use of IBT staff during the 1996 election as described in the Nash memo. Mr. Sever indicated that the IBT was not conducting an internal investigation of the allegations.¹⁰⁷

Michael Cherkasky, the Election Officer, conducted a limited investigation of issues relating to the Nash Memo while adjudicating a post-election protest filed by Mr. Hoffa. While Mr. Cherkasky stated that he found the memo “enormously disturbing,”¹⁰⁸ he did not investigate whether all of the IBT employees mentioned in the Nash Memo broke election rules by working for the re-election of Ron Carey on union time. Rather, Mr. Cherkasky “decided that no further remedies will be imposed for misconduct relating to the initial [1996] election,”¹⁰⁹ as it had already been invalidated. Mr. Cherkasky limited the investigation to “relevant background information and to determine if the current allegations reflected a pattern.”¹¹⁰ As a result of Mr. Cherkasky’s self-imposed limits, the only aspect of the Nash memo that the Election Officer investigated were the activities of

¹⁰⁶ Id.

¹⁰⁷ O&I Hearing, May 19, 1998, at 54.

¹⁰⁸ O&I Hearing, April 29, 1997 (publication forthcoming). The Subcommittee notes that the Election Officer found that Mr. Sever personally violated the election Rules during the re-run election campaign. See, In re: David A. Eckstein, et al., Decision of the Election Officer for the International Brotherhood of Teamsters, August 14, 1998.

the Organizing Director and his staff.¹¹¹ The Nash memo stated that Bob Muehlenkamp “turned his Organizing Department over to the [Carey] campaign and became a full time campaigner himself.”¹¹²

Mr. Cherkasky concluded that Mr. Muehlenkamp and others committed no violation of the election rules:¹¹³

The records and testimony gathered in this investigation show that union resources were devoted to organizing through Mr. Muehlenkamp’s department. Without evidence that this effort was a sham – and the evidence is to the contrary – the Election Officer will not second guess the policy choice reflected by the IBT’s management decisions about this department. Candidates are free to debate whether the concentration of union resources in the Organizing Department was appropriate or whether organizing should be approached differently. But the existence of the department, and the decision to fund and support its operations consistent with legitimate union priorities, is not a *Rules* violation.¹¹⁴

Mr. Nash has provided investigators with contradictory accounts of what his memo actually meant. During an interview with the Election Officer’s staff – which was not conducted under oath – Mr. Nash asserted that, when he wrote that the Organizing Director was a “full time campaigner,” he did not mean that Mr. Muehlenkamp was campaigning on union time. Rather, Mr. Nash contended that his description of Mr. Muehlenkamp was an exercise in hyperbole. Mr. Nash said he did not know that anyone in the Organizing Department had ever been assigned to do campaign work on union time,

¹⁰⁹ Letter from Michael Cherkasky to James P. Hoffa, et al., Re: Election Officer Case No. PR-074-IBT-EOH, September 23, 1998. at 2 [Hereinafter referred to as the “Muehlenkamp Decision”].

¹¹⁰ Id. at 2.

¹¹¹ Id.

¹¹² Nash Memo.

¹¹³ Muehlenkamp Decision at 2.

¹¹⁴ Id. at 6-7.

although he understood that organizers could work for the campaign in their off-hours from their assigned locations.¹¹⁵

Mr. Nash, however, gave a different explanation when questioned under oath by the Independent Review Board about the memo. In that testimony, Mr. Nash stated that Mr. Muehlenkamp, head of the Organizing Department, “was helpful in identifying people in the Organizing Department that could assist in the campaign. If they needed to be relocated, they could. He was helpful in identifying people that had strengths in certain areas of the campaign.”¹¹⁶ In addition, Mr. Nash testified that Mr. Muehlenkamp had reassigned employees to enable them to help out in the campaign.¹¹⁷ Mr. Nash stated that he was not suggesting that Mr. Muehlenkamp committed any “wrongdoing.”¹¹⁸

While Mr. Nash was in an excellent position as campaign manager to describe what IBT employees did for Ron Carey’s campaign, he may not have known whether these same employees worked for the campaign on union time. The Subcommittee concludes that the Nash memo raises significant issues regarding the misuse of IBT resources for election purposes and that these issues have not yet been fully addressed. Such wrongdoing may constitute violations of the LMRDA. As a result, the Subcommittee recommends that the Independent Review Board, the Department of Labor, and/or the Department of Justice conduct a full investigation of this matter.

¹¹⁵ See, generally, Muehlenkamp Decision.

¹¹⁶ In the Matter of: Charges Against Former International Brotherhood of Teamsters, William W. Hamilton and Ronald Carey, Proceedings Before the Independent Review Board, Vol. IV, March 11, 1998, at 837.

¹¹⁷ Id.

E. The Rerun Election

As part of her August 21, 1997 decision, Barbara Zack Quindel ordered a rerun of the IBT election. During the past year, the Subcommittee actively monitored the conduct of the rerun election. For example, Michael Cherkasky, Ms. Quindel's successor, appeared twice before this Subcommittee and testified to the measures that would be taken to ensure the integrity of the rerun election. This section describes the conduct of the rerun election and outlines the reasons behind the nearly two-year delay between the invalidation of the 1996 election and the 1998 re-run: securing funding for the rerun and concluding the investigation of a protest against Mr. Hoffa.

On September 29, 1997, Judge David Edelstein of the U.S. District Court for the Southern District of New York issued an opinion and order approving the Election Officer's plan for a rerun election, and setting forth the rules that would govern and establish the rerun election.¹¹⁹ At about the same time, Election Officer Barbara Zack Quindel resigned from her position and Judge Edelstein appointed an Interim Election Officer.¹²⁰

Conduct of the rerun election was delayed by several months so that the Election Officer could conduct an investigation of a protest filed by the Carey campaign against the Hoffa slate. On April 27, 1998, Mr. Cherkasky concluded his investigation of the Hoffa slate, finding that it had received free services from a public relations consultant, Richard

¹¹⁸ Id. at 1129-1133.

¹¹⁹ U.S. v. IBT, 88 Civ. 4486 (S.D.N.Y.), (September 14, 1998) (discussing the Election Officer's Application X, For Approval of Proposed Rerun Election Plan and Establishing Rules For The 1996 International Brotherhood of Teamsters' Rerun Election) and U.S. v. IBT, 981 F.Supp. 222 (S.D.N.Y. 1997).

¹²⁰ Ms. Quindel resigned due to apparent conflicts of interest involving her contacts with Citizen Action and the New Party. The latter is a political entity to which the IBT had donated funds during 1997.

Leebove.¹²¹ Mr. Cherkasky also found that Mr. Hoffa provided testimony that “was not complete or accurate” regarding a contribution from a former IBT General President.¹²² Finally, Mr. Cherkasky found that Thomas R. O’Donnell, a candidate on Mr. Hoffa’s slate, had paid the wife of a campaign consultant, rather than the consultant himself who was a convicted felon.¹²³ Nonetheless, Mr. Cherkasky ruled that Mr. Hoffa could stand as a candidate in the re-run election.¹²⁴

After this delay, on May 5, 1998, Mr. Cherkasky submitted another application (“Application XVIII”) to the court with a new timetable,¹²⁵ under which the election would have concluded in October 1998. The Court granted the application and established a new timetable for the conduct of the rerun election.¹²⁶ The rerun election process officially commenced on June 15, 1998 with the mailing of supplemental nomination ballots. Candidates filed slate declarations on July 13, 1998. However, because of a funding dispute between the IBT, the DOJ, and Congress, Mr. Cherkasky was forced to revise his plans yet again.

In the fall of 1997, the DOJ had negotiated a tentative agreement with the IBT to share the rerun costs.¹²⁷ The DOJ had proposed using either \$1.9 million in unobligated funds allocated under the 1997 Justice Appropriations Act, or an equal sum from other

¹²¹ See, In re Carey Slate, Decision of the Election Officer for the International Brotherhood of Teamsters (Post-47-EOH)(MGC), April 27, 1998.

¹²² Id. at 31.

¹²³ Id. at 69. The Subcommittee notes that the IRB subsequently brought charges against Mr. O’Donnell related to the matter. See, Proposed Charges Against Local 817 President Thomas R. O’Donnell, Independent Review Board, December 3, 1998.

¹²⁴ Id. at 109.

¹²⁵ U.S. v. IBT, 88 CIV 4486 (DNE)(S.D.N.Y.)(Application XVIII For Approval of the Timetable for the Rerun Election).

¹²⁶ U.S. v. IBT, 88 Civ. 4486 (S.D.N.Y.)(June 3, 1998)(E.O. Application XVII at 4).

¹²⁷ *Teamsters to Pay Half of Election Cost; Re-run Balloting After Scandal Estimated to Cost \$7.4 Million*, Boston Globe, November 5, 1997, at C2.

DOJ programs.¹²⁸ However, Congress objected to such a use of taxpayer dollars.¹²⁹ The 1998 Department of Justice and Department of Labor Appropriations Acts both included the following provision: “None of the funds made available in this Act may be used to pay the expenses of an election officer appointed by a court to oversee an election of any officer or trustee of the International Brotherhood of Teamsters.”¹³⁰

On December 1, 1997, the Interim Election Officer applied to the District Court seeking an order securing funding for the 1996 election rerun. The IBT argued that despite the prohibition in the 1998 appropriations acts, the government should be required to pay for the rerun election. The District Court ruled that the government had no legal obligation to pay for the rerun election. In Judge Edelstein’s opinion, “the Consent Order does not impose a legal duty on the government to continue indefinitely to have the 1996 election process supervised at the government’s expense.”¹³¹ He concluded by holding that “the time has come when the IBT must bear its own costs for cleansing its Augean stable. In plainer words they made the mess. It is their job to clean it up at any price.”¹³²

On March 30, 1998, the United States Court of Appeals for the Second Circuit reversed Judge Edelstein’s decision. The opinion noted that the rerun is a continuation of the 1996 election and that, “under the terms of the Decree, the government must pay the cost of supervision if it chooses to have the rerun supervised.”¹³³ The court, however, did not unanimously decide the case. A dissenting opinion reasoned that the IBT breached the

¹²⁸ See, generally, Letter from James Hinchman to Chairman Hoekstra, April 28, 1998. Exhibit 13.

¹²⁹ Id.

¹³⁰ 1998 Justice Appropriations Act, Sect. 618, 111 Stat. at 2519; 1998 Labor Appropriations Act, Sect. 518, 111 Stat. at 1518.

¹³¹ U.S. v. IBT, 989 F.Supp. 468, 477-78 (S.D.N.Y. 1997).

¹³² Id.

¹³³ U.S. v. IBT, 97-6324, slip op. at 3 (2nd Cir., March 30, 1998).

Consent Order by using union funds to promote the candidacy of Ron Carey. The dissent reasoned that requiring the IBT to fund the rerun would make the government whole and would be an appropriate remedy for violating the Consent Order.¹³⁴

Despite this decision of the Appeals Court, a funding plan remained elusive and an unsupervised election was a real possibility.¹³⁵ In September 1998, a compromise was ultimately reached on funding. The Government secured approximately \$4.017 million to reimburse the IBT for expenditures already incurred by the Independent Review Board, if the Teamsters would allocate “an amount equal [to that sum]...to fund Election Officer supervision of the rerun”¹³⁶ and “supplement that with such additional funds as are needed to pay for conducting the supervised election.”¹³⁷ The IBT’s General Executive Board, after several court hearings, agreed to pay \$4.017 million to the Election Officer, immediately upon receipt of that amount from the government, but only agreed to contribute an additional \$2 million to the supervision effort. Judge Edelstein noted that “the General Executive Board of the IBT finally approved the \$2 million contribution only after this Court demonstrated to the GEB that \$2 million is an amount far less than the IBT would have had to expend on an unsupervised election.”¹³⁸

The total amount made available to the Election Officer was far short of the \$8.6 million that Mr. Cherkasky previously had said was needed to run a supervised election. Because of the funding shortfall, Mr. Cherkasky made approximately \$2 million in budget

¹³⁴ U.S. v. IBT, 989 F.Supp.468, 477-78 (S.D.N.Y. 1997).

¹³⁵ On August 5, 1998, the IBT filed its own plan for an unsupervised election that they estimated would cost approximately \$4 million dollars. This is half of what Mr. Cherkasky had budgeted and less than the Teamsters had claimed the election would cost in their own 1997 financial report. Judge Edelstein rejected the IBT’s election plan and the Teamsters filed an appeal.

¹³⁶ US v. IBT, 88 Civ. 4486 (S.D.N.Y. September 14, 1998), at 7.

¹³⁷ Id.

cuts from the earlier plans. Despite the decreased budget, Mr. Cherkasky assured the court that the rerun election “will be fair, will have integrity, and that the results will be honest.”¹³⁹

On November 2, 1998 government monitors mailed about 1.4 million ballots to the rank and file in the United States and Canada. James P. Hoffa and Tom Leedham were the principal candidates for General President in the election. The Election Officer began counting ballots on December 3, 1998. On December 7, 1998, Mr. Leedham conceded defeat.

F. Congressional Investigation

Congress has devoted significant attention to the IBT’s 1996 election and related matters. On August 26, 1997, Representative Peter Hoekstra, Chairman of the Subcommittee on Oversight and Investigations of the House Committee on Education and the Workforce, announced that the Subcommittee would begin an investigation of the International Brotherhood of Teamsters’ 1996 election of officers. During the course of its investigation, the Subcommittee looked into the misconduct associated with the 1996 election and explored various other issues, including the following:

- manipulation of pension funds under IBT control;
- the accuracy of reports made by the IBT to the U.S. Department of Labor;
- mismanagement of the union’s financial affairs;
- misuse of the union’s internal Ethical Practices Committee;

¹³⁸ US v. IBT, 88 Civ. 4486 (S.D.N.Y. September 14, 1998), at 7.

¹³⁹ Id. at 15.

- the reasons underlying the trusteeship of many IBT local unions;
- the IBT's implementation of the Independent Administrator's recommendations; and
- the IBT's political activities, including, Clinton Administration efforts to grant favors to the IBT in exchange for political contributions.

In addition, the Subcommittee monitored the activities of the Election Officer, the Independent Review Board, and the Independent Financial Auditor to ensure they are discharging their duties in an acceptable manner.

1. Synopsis of the Subcommittee's Hearings

To explore these matters, the Subcommittee conducted interviews, depositions, and hearings, and requested and subpoenaed documents. As most of the investigatory matters are discussed in the following chapters of the report, the hearings are only briefly summarized here.

- On October 14, 1997, two rank-and-file members of the IBT testified that Carey supporters had beaten them for trying to speak in meetings of their local unions, and that no one had been punished as a result. Two IBT organizers testified that they had campaigned on Carey's behalf on union time at the direction of their supervisor. These organizers and an IBT International Representative testified that they were pressured to donate to the Carey campaign and that they did so, for fear of losing their jobs. A former supervisor at the IBT's Political Action Committee provided the Subcommittee with a great deal of detailed information regarding the improper contributions during the 1996 IBT election.
- On October 15, 1997, the Election Officers for the 1991 and 1996 elections testified on the methods, results, and costs associated with their oversight. The 1996 Election Officer testified that it was impossible for her to detect Carey's fundraising swaps prior to the election, as the events occurred at the last minute. She also testified that she completed her investigation of the 1996 election during the Teamsters strike against United Parcel Service, but that she withheld her decision to order a new election in order to prevent influencing the strike.

- On March 26, 1998, two former International Trustees testified that, after they complained about the union's bad financial condition, Ron Carey, Tom Sever, and IBT employees refused to provide them with financial information necessary to perform their constitutionally-mandated biannual audit of the IBT. They were also barred from GEB meetings. A former International Vice President testified that the Carey administration used the disciplinary process, the abolition and creation of subordinate union bodies, and the emergency dues assessment to centralize power at the international level. The Secretary-Treasurer of an IBT local testified that the IBT leadership's decision to freeze contributions to the Teamsters Affiliates Pension Plan (TAPP), which pays benefits to local union employees, was designed to continue the emergency dues assessment and to gather additional financial resources for IBT headquarters. The Subcommittee's Forensic Auditor testified that there was a large increase in payroll, travel expenses, professional fees, legal fees, and contributions for civic betterment in 1996, even as the union's net worth continued its decline.
- On April 29, 1998, the Independent Financial Auditor and the Election Officer testified regarding their oversight of the IBT. The Independent Financial Auditor testified that he does not have the authority to question the business purpose of any IBT expenditure or to review IBT legal bills or pension funds. The Election Officer testified about his investigation of the use of IBT resources for campaign purposes in the 1996 election and the rerun election. He also described his plan for overseeing the rerun election. Both witnesses were also questioned about a post-election memorandum to Carey from his campaign manager listing over 30 IBT employees and their work on behalf of the campaign – on union time (the Nash Memo).
- On April 30, 1998, the President of the AFL-CIO, John Sweeney, testified regarding the labor federation's role in the fundraising schemes. The AFL-CIO's Secretary-Treasurer, Richard Trumka, is allegedly responsible for the AFL-CIO's participation in the fundraising swap among the IBT, Citizen Action, and the Carey campaign, but declined to appear before the Subcommittee, citing his Fifth Amendment rights. Sweeney testified that he does not believe Trumka has done anything improper and that he is not investigating the matter further.
- On May 19, 1998, Tom Sever, the IBT's General Secretary-Treasurer and Acting President, testified that he was not investigating evidence that at least 30 IBT employees were involved in using union resources for the Carey campaign. Sever also pledged to cooperate with all ongoing investigations.
- On June 15, 1998, Stephen Leser, a partner in the Teamsters' accounting firm, Grant Thornton, LLP, testified that he was not aware of a subordinate's memorandum discussing IBT general treasury expenditures for election activity and that he was not a party to discussions of whether the IBT should include such information in its files. A. Donald Morgan, a partner in the Segal Company, the Teamsters' actuarial firm, testified that he participated in a conference call relating to the Teamsters Affiliates Pension Plan. The purpose of the call was to determine the effect actuarial changes to

the TAPP – in particular, a discount rate used in calculating the required IBT contribution to TAPP – would have upon the net worth of the IBT. During the call, it became clear that the IBT officials were interested in setting the discount rate at a level that would allow the IBT to continue its emergency dues assessment. This rate change also was inaccurately reported in the pension plan’s audited financial statement for the following year.

- On June 16, 1998, five witnesses from the Department of Labor testified regarding their oversight, investigations, and audits of the IBT. While DOL oversight of the IBT’s financial activities and conditions has been minimal since the establishment of the Consent Order, it began two investigations in 1998.
- On July 24, 1998, the Subcommittee heard testimony from Aaron Belk, an IBT Vice President, former administrator of the Ethical Practices Committee, and Mr. Carey’s former Executive Assistant. Mr. Belk testified that he does not recall any work performed for the EPC by attorney Charles Ruff. This contradicted an earlier sworn statement by Mr. Ruff, now White House Counsel, that he was hired by the IBT to advise the EPC.¹⁴⁰
- On July 30, 1998, five witnesses from the IRB testified about their role and their actions taken as set forth by the Consent Decree.
- On September 29, 1998, Election Officer Michael Cherkasky testified about the timetable, funding, and oversight process of the rerun of the 1996 IBT Election.
- On October 6, 1998, the Subcommittee heard testimony from witnesses on both sides of the Clinton administration’s effort to pressure Diamond Walnut Growers, Inc. to settle a longstanding strike with the Teamsters. Those witnesses included former United States Trade Representative Mickey Kantor, the former Diamond Walnut president, and Ronald Carver, a Teamsters’ official.

2. Limitations on the Subcommittee’s Investigation

In the public record and in correspondence, attorneys for the Teamsters have claimed to be cooperating with the Subcommittee. In reality, the cooperation was rare, as the investigation has been obstructed by IBT activities that included:

- Refusing to allow interviews;

¹⁴⁰ A review of subpoenaed documents ultimately produced by the IBT shows that Mr. Ruff and his firm, Covington & Burling, were conducting legitimate anti-corruption work for the Union.

- Piecemeal and inadequate production of financial records; and
- Redacting relevant and significant information from materials that were provided.

The Subcommittee's investigative efforts were substantially limited by several factors including non-cooperative entities and individuals, and the Rules of the House of Representatives. These limitations are discussed below.

a. IBT Objects to Subcommittee Subpoena for Documents

On February 19, 1998, the Subcommittee issued a subpoena to the IBT for several categories of documents related to the investigation.¹⁴¹ In a March 5, 1998 letter, IBT counsel contended that the subpoena "seeks documents beyond the scope of the Subcommittee's inquiry" and "is so fatally flawed in a number of respects as to be legally invalid."¹⁴² Counsel provided a lengthy list of purported common law and constitutional objections, ranging from attorney-client privilege to First Amendment protection. Thus, the IBT only produced certain documents relating to the alleged irregularities in the 1996 IBT election and other publicly available documents (such as tax filings and FEC reports). The IBT stated that this limited production was "voluntary," and refused to produce other documents required by the subpoena.

Over the next several months, Subcommittee staff and IBT counsel, through correspondence and in face-to-face meetings, sought to clarify their respective positions regarding the subpoena. In an effort to alleviate some of the IBT's practical concerns, the Subcommittee provided the IBT with priority categories of documents and agreed to

¹⁴¹ This subpoena was withdrawn due to a technical correction and re-issued on March 10, 1998.

allow a rolling production of documents in accordance with a set schedule. The Subcommittee also agreed to narrow certain aspects of the subpoena.¹⁴³ Eventually, after several months of delay and legal wrangling, the IBT began to produce additional responsive documents; however, there remained several categories of documents that the IBT refused to produce.

One such category related to work performed for the IBT by the law firm Covington & Burling and the investigative firm Palladino & Sutherland. The Subcommittee was investigating allegations that the IBT paid Covington & Burling to represent IBT President Ron Carey in his personal capacity before the IRB. This expenditure would be improper without authorization from the General Executive Board. The Subcommittee also was investigating allegations that Palladino & Sutherland conducted opposition research against political opponents of the Carey administration.¹⁴⁴ The Teamsters maintained that these documents were protected by the attorney-client privilege and the attorney work product doctrine. The Subcommittee also issued subpoenas for related documents to Covington & Burling, Palladino & Sutherland, and Howrey & Simon (the successor firm to Covington & Burling). The IBT directed these firms to assert the same privileges.

At an April 1, 1998 meeting and in subsequent correspondence, the Subcommittee informed the IBT that blanket claims of privilege were unacceptable, and requested privilege logs detailing specific documents claimed to be privileged. After significant

¹⁴² Letter from Leslie B. Kiernan to Joseph E. diGenova, Victoria Toensing, and Lauren Fuller, March 5, 1998. Exhibit 14.

¹⁴³ Letter from John Loesch to Leslie Kiernan, May 11, 1998. Exhibit 15.

¹⁴⁴ The IBT paid in excess of \$250,000 to Covington & Burling, of which Palladino & Sutherland received approximately \$175,000.

delay, those privilege logs were produced on May 15, 1998 by Covington & Burling, on July 22, 1998 by Palladino & Sutherland, and on August 7, 1998 by Howrey & Simon. The IBT never produced a privilege log.

After receiving the privilege logs, Subcommittee staff consulted with House General Counsel and the American Law Division of the Congressional Research Service regarding the IBT's privilege claims.¹⁴⁵ Chairman Hoekstra determined that the privilege logs did not establish each element of the attorney-client privilege. Therefore, he overruled the IBT's privilege claims and required the IBT either to produce the relevant documents or to provide the Subcommittee with additional evidence in support of the privilege.¹⁴⁶ When the IBT did not respond adequately, the Chairman once again overruled the IBT's objections and scheduled an October 2, 1998 business meeting of the Subcommittee to consider a contempt of Congress resolution.¹⁴⁷ The Chairman gave the IBT the opportunity to submit a written appeal to the full Subcommittee. On September 29, 1998, the IBT produced some of the requested documents and submitted affidavits and other materials in support of its privilege claims. The IBT also requested a meeting with Subcommittee staff before the business meeting in an effort to resolve the privilege issues.

At a meeting with Subcommittee staff on October 1, 1998 (one day prior to the scheduled Subcommittee meeting), IBT counsel and staff reached an agreement whereby the IBT would provide access to all the documents in question and would produce any

¹⁴⁵ See, Memorandum from Morton Rosenberg to Chairman Hoekstra, September 17, 1998. Exhibit 16.

¹⁴⁶ Letter from Chairman Hoekstra to Leslie B. Kiernan, August 28, 1998. Exhibit 17.

¹⁴⁷ Letter from Chairman Hoekstra to Thomas Sever, September 24, 1998. Exhibit 18.

documents the Subcommittee deemed relevant to the investigation.¹⁴⁸ In return, the Subcommittee agreed to special handling of these documents due to the sensitive nature of the information contained in the files.

Ultimately, the Teamsters complied with the Subcommittee's subpoena with respect to these particular documents and avoided a contempt vote. The Subcommittee concludes that the documents and other evidence produced to date by the IBT do not support the allegations against Covington & Burling and Palladino & Sutherland.¹⁴⁹ It is unfortunate that the IBT hindered the Subcommittee's investigation for over seven months and only permitted access to the relevant documents literally on the eve of a vote to hold the IBT in contempt of Congress.

b. IBT Refuses to Allow Employees to be Interviewed

The investigation was also hindered by the IBT's refusal to allow interviews of their employees and of employees of the IBT's outside accounting and actuarial firms. On March 17, 1998, the Subcommittee requested that interviews be scheduled with Joseph Selsavage, IBT Director of Accounting; Robert Meuhlenkamp, IBT Director of Organizing; and Aaron Belk, International Vice President and former Executive Assistant to the IBT President. On that same date, the Subcommittee also requested an interview with Stephen Leser, the audit partner at the IBT's accounting firm, Grant Thornton,

¹⁴⁸ Letter from Chairman Hoekstra and Representative Patsy Mink to Leslie Kiernan, October 1, 1998. Exhibit 19.

¹⁴⁹ In a letter to the Subcommittee, Charles Ruff directly disputed the allegations of improper representation: "any suggestion that the fees paid to [Covington & Burling] or to Palladino & Sutherland were part of a scheme to divert union funds for improper purposes is utterly baseless." Letter from Charles F.C. Ruff to Chairman Hoekstra, August 21, 1998. Exhibit 20.

LLP.¹⁵⁰ In a March 20, 1998 letter to Chairman Hoekstra, IBT counsel expressed a willingness to cooperate with the Subcommittee, yet refused to allow interviews of the requested individuals.¹⁵¹

In a May 11, 1998 letter, the Subcommittee again requested that an interview be scheduled with Joseph Selsavage, and provided IBT counsel with a list of topics for the interview.¹⁵² On May 19, 1998, IBT Secretary-Treasurer and Acting President, Tom Sever, testified before the Subcommittee and pledged his full cooperation with the investigation:

I want to reveal any information that is necessary for your committee or any other investigative committee, and I will cooperate to the best of my ability...I will work with them in every way I possibly can to conclude their investigation and make certain that all the information necessary is available.¹⁵³

Just two weeks after Mr. Sever's sworn testimony to cooperate with the Subcommittee, on June 4, 1998, IBT counsel stated that the IBT would not consent to interviews of IBT employees and outside accountants and actuaries. The IBT would only permit these individuals to be questioned at a Subcommittee hearing.¹⁵⁴

At this point in the investigation, the IBT was hindering substantive investigative work by refusing to provide documents or to allow interviews. The Subcommittee was

¹⁵⁰ Grant Thornton is the accounting firm hired by the IBT to conduct annual audits of the IBT's financial statements.

¹⁵¹ Letter from William Taylor to Chairman Hoekstra, March 20, 1998. Exhibit 21.

¹⁵² See, Exhibit 15.

¹⁵³ O&I Hearing, May 19, 1998 at 31, 66.

¹⁵⁴ Letter from Leslie Kiernan to John Loesch, June 4, 1998. Exhibit 22. The IBT also objected to interviews of former IBT employees. In fact, in a July 14, 1998 letter, IBT counsel falsely accused majority counsel of violating attorney professional ethics provisions by conducting interviews of former IBT headquarters employees. See, letter from Leslie Kiernan to Joseph diGenova, Victoria Toensing, and John Loesch, July 14, 1998, Exhibit 23, and reply from Kerry Kircher, Deputy General Counsel, to Leslie Kiernan, July 29, 1998, Exhibit 24.

powerless to a large extent, as the Rules of the House of Representatives did not grant the Subcommittee the authority to subpoena witnesses for depositions. This shortcoming was ultimately rectified by the passage of H. Res. 507 on July 30, 1998, which authorized the taking of depositions by Subcommittee staff of witnesses under oath, pursuant to notice or subpoena. The additional authority allowed the Subcommittee to question otherwise uncooperative individuals and proved to be a valuable investigative tool. From the passage of H. Res. 507 until the adjournment of the House on October 21, 1998, the Subcommittee conducted 18 depositions of IBT employees, outside accountants and actuaries, and other individuals with information relevant to the investigation.

The lack of deposition authority, coupled with the IBT's refusal to permit interviews, allowed the IBT to obstruct and delay the Subcommittee's investigation. In order to assure the swift and thorough conduct of future investigations, deposition authority must be granted at the outset.

c. Richard Trumka Refuses to Testify

On April 30, 1998, the Subcommittee held a hearing to examine one of the "contribution swap" schemes described by the Election Officer. In particular, this hearing focused on a \$150,000 transfer from the IBT general treasury to the AFL-CIO, and a subsequent \$150,000 contribution from the AFL-CIO to the liberal advocacy group Citizen Action. Citizen Action kept \$50,000 of these funds and transferred \$100,000 to the November Group to pay for Ron Carey's campaign expenditures.

In an effort to determine the AFL-CIO's role in the alleged money-laundering scheme, the Subcommittee invited Richard Trumka, AFL-CIO Secretary-Treasurer, to

testify. Mr. Trumka, through his attorney, indicated that he would decline to testify consistent with his rights under the Fifth Amendment.¹⁵⁵ John Sweeney, AFL-CIO President, agreed to attend the hearing in place of Mr. Trumka.

Due to Mr. Trumka's absence, and John Sweeney's lack of knowledge of the surrounding facts, the hearing shed little additional light on the AFL-CIO contribution swap. Mr. Sweeney testified that he was disturbed by the allegations against the AFL-CIO arising out of the Teamsters' election; however, he had no involvement in any fundraising for Ron Carey, nor was he involved in the \$150,000 transaction. Mr. Sweeney said that his own investigation found no basis to conclude that anyone at the AFL-CIO knew or was told that the checks from the IBT and to Citizen Action were part of a scheme to launder IBT treasury money into the Carey campaign through Citizen Action. This conclusion was made without speaking with Richard Trumka about the transaction.¹⁵⁶

d. Ron Carey Refuses to Testify

Another key participant who asserted his right against self-incrimination was Ron Carey, former IBT General President. Subcommittee staff first explored the possibility of conducting a deposition of Mr. Carey without the need for a subpoena; however, counsel for Mr. Carey claimed they were unable to contact their client to discuss the proposal.¹⁵⁷

¹⁵⁵ See, Exhibit 1.

¹⁵⁶ O&I Hearing, April 30, 1998, at 8. Mr. Trumka told Mr. Sweeney that he had been advised by his counsel not to discuss the matter with anyone. Mr. Sweeney stated that he trusts Richard Trumka and does not believe he would "knowingly participate in a scheme to launder union treasury money into the campaign coffers of a candidate for union office." Thus, he did not pursue the matter any further.

¹⁵⁷ Various telephone conversations between William M. Outhier and Reid Weingarten and/or Mark J. Hulkower.

Following that failed attempt to seek Mr. Carey's voluntary cooperation, the Subcommittee issued a deposition subpoena to Mr. Carey on December 4, 1998.¹⁵⁸

Upon being notified that a Deputy U.S. Marshal had served Mr. Carey, Mr. Carey's counsel at first mistakenly contended that the service was defective because a member of Mr. Carey's family, and not Mr. Carey himself, had accepted the subpoena.¹⁵⁹ As a result, Mr. Carey's counsel stated that he would not appear for a deposition.¹⁶⁰ When informed that he was mistaken, Mr. Carey's counsel represented that his client would assert his privilege against self-incrimination under the Fifth Amendment.¹⁶¹

e. Subcommittee Agreed to Limit Scope of Investigation to Avoid Interfering with U.S. Attorney's Criminal Investigation

The Subcommittee's ability to fully investigate the contribution swap schemes was significantly limited by one other consideration. Following consultation with the U.S. Attorney for the Southern District of New York, the Subcommittee agreed to limit the scope of its inquiry in order to reduce the possibility of interfering with the ongoing criminal investigation related to the 1996 IBT elections. For example, at the request of the Southern District, the Subcommittee agreed not to call Brad Burton, Executive Assistant to Richard Trumka, and Susan Mackie, Comptroller for the AFL-CIO, as witnesses for its April 30th hearing. In addition, the Subcommittee refrained from calling other witnesses knowledgeable about the contribution swaps, and also agreed not to

¹⁵⁸ Subpoena (Deposition) to Ronald Carey, December 4, 1998.

¹⁵⁹ Telephone conversation between William M. Outhier and Mark J. Hulkower, December 11, 1998.

¹⁶⁰ Id.

¹⁶¹ Telephone conversations between William M. Outhier and Mark J. Hulkower, December 11, 1998. See, also, Exhibit 3.

question certain individuals about the money laundering schemes during staff depositions.¹⁶²

Despite this continued cooperation by the Subcommittee, the Southern District's criminal investigation appears to have stalled. After receiving guilty pleas from Martin Davis, Jere Nash, and Michael Ansara in September, 1997, the U.S. Attorney has managed only two guilty pleas from minor players in the swap schemes and the indictment of William Hamilton. Mr. Hamilton has yet to go to trial. It appears that higher-ranking union officials, third party advocacy groups, and individuals at the DNC, found by federal monitors to be involved in the election misconduct, have escaped serious scrutiny.

¹⁶² The Subcommittee was also unable to speak with Martin Davis, Jere Nash, Michael Ansara, Bill Hamilton, and other individuals either under investigation by, or cooperating with, the U.S. Attorney's criminal investigation.

CHAPTER III:

ABUSE OF POWER, ARROGANCE AND CORRUPCTION: AN OVERVIEW OF GENERAL EXECUTIVE BOARD MEETINGS AND RESOLUTIONS, 1992-1997

A. Summary

At the IBT's first 1992 General Executive Board meeting, the newly elected Board Members passed six omnibus resolutions and ushered in a new administration at the International Brotherhood of Teamsters. These resolutions addressed such issues as eliminating corruption in the IBT, accountability to IBT members and members' access to the International Union, financial priorities, strategic planning and restructuring, political action and endorsements, and support for third-party groups that assisted unions.¹⁶³ The GEB would follow through on some of the resolutions; on others, the GEB would take little or no action, particularly on those relating to the union's financial situation. Through a combination of inaction and mismanagement, the GEB created conditions that fostered misuse of union assets, misrepresentation of the IBT's financial affairs, and questionable transactions and illegal activities during the 1996 IBT general elections. In short, the GEB failed to fulfill its obligations to oversee the union's operating and financial affairs.

B. Background

Even before the GEB met on February 3, 1992, its members had received copies of a transition report. The report, which was prepared by an outside consultant, addressed the IBT's organization and transition process, provided general recommendations, and

identified areas requiring special attention. The transition consultants noted that they could find no organizational budgets, no operating policies or procedures, and no written documentation of roles and responsibilities. The consultants further observed that “political (i.e. patronage) appointments have destroyed the effectiveness of many areas. Changes have been made frequently without any demonstrated or documented rationale.”¹⁶⁴ As a result, the consultants recommended that the IBT:

- Develop policies and procedural manuals for financial and personnel issues;¹⁶⁵
- Initiate budget and cash flow planning processes;¹⁶⁶
- Review the role of the internal auditor and change it to meet the IBT’s needs;¹⁶⁷ and
- Have auditing staff report to either the Audit Committee of the General Executive Board or the General President, thus ensuring “independence from the financial functions performed by the Office of the General Secretary-Treasurer.”¹⁶⁸

On March 31, 1992, barely one month later, the Independent Administrator issued a report noting the same shortcomings. This report, which was distributed to all Board members, referred to the “ills of the IBT’s financial procedures, or lack thereof,” and noted that “there are three fundamental faults in the IBT financial management system.”¹⁶⁹ Despite these warnings of fundamental management problems at the IBT, the General Executive Board arrogantly ignored the recommendations.

¹⁶³ Exhibit 6 at 13-23.

¹⁶⁴ MGT of America, Inc. and Spectrum Consulting Group, Inc., *International Brotherhood of Teamsters Report on Operational Review of Financial and Administrative Areas*, January 1992, at 14-15. Exhibit 25.

¹⁶⁵ Id. at 19.

¹⁶⁶ Id. at 22.

¹⁶⁷ Id. at 68.

¹⁶⁸ Id.

C. Resolutions on Operating Matters

Eliminating Corruption

The first resolution approved at the February 3, 1992 meeting committed the GEB “to ending Government supervision of the affairs of the International Brotherhood of Teamsters and substituting an effective and vigorous Ethical Practices Committee to ensure that this union operates democratically and free from corruption at all levels.”¹⁷⁰

It would take more than a resolution to convince the federal court overseeing the Consent Order that the GEB was taking substantive actions to combat corruption. Six months after this resolution was approved, IBT officials attended a hearing (on unrelated matters) before Judge David Edelstein of the U.S. District Court for the Southern District of New York. During the hearing, Judge Edelstein noted that, “while claiming only the purest intentions, [the Carey] administration’s record on investigating corruption and imposing discipline is pathetic.”¹⁷¹ He also said that, “despite this administration’s promise of reform, it boasts an anemic record in attempting to eradicate corruption.”¹⁷² Judge Edelstein saw the new IBT leaders’ posture as overly litigious and combative “with respect to both the Court-Appointed Officers and the IRB,”¹⁷³ noting that the new “IBT administration had to choose between funding an agent of reform or financing a campaign to thwart reform; like its predecessors, it would rather pay to fight reform than fund reform.”¹⁷⁴

¹⁶⁹ Independent Administrator Report at 76.

¹⁷⁰ Exhibit 6 at 15.

¹⁷¹ U.S. v. IBT, 803 F.Supp. 761,780.

¹⁷² Id. at 788.

¹⁷³ Id. at 777.

Strategic Planning and Restructuring

Another resolution approved at the February 1992 GEB meeting addressed strategic planning and restructuring within the IBT. This resolution, which was also approved without a dissenting vote, called for the establishment of a task force to:

study the entire structure, organization and staff of this Union, including, but not limited to, the departments and staffing at Union headquarters; the purpose, organization, structure, bylaws, charters, financing, expenditures, accountability and actions of the area conferences, state conferences, trade divisions, trade conferences, joint councils and locals; and the functions, salaries, expenses and accountability of international officers, officials, representatives, employees and field staff.¹⁷⁵

The GEB also ordered the task force to consider what “will best serve our members as well as the principles of decentralization, local autonomy and cooperation which have served this Union and its members in the past.”¹⁷⁶

The Subcommittee notes that the goal of this resolution was to affect organizational change, particularly at IBT headquarters. Nonetheless, the GEB knew as early as 1992 of fundamental faults in the IBT finance system which both the Independent Administrator and the transition consultant identified. Despite those warnings, the GEB failed to correct these deficiencies.

GEB Bars Trustees

In 1993 and 1994, the union’s International Trustees, whose duty it was to audit the union’s books, criticized IBT leaders for their inability to bring spending under control. This criticism brought about an escalating dispute, which came to a head at an

¹⁷⁴ Id. at 789.

¹⁷⁵ Exhibit 6 at 19-20.

April 1994 GEB meeting at which Ron Carey forced the trustees to leave the room. The Trustees were then barred from attending subsequent GEB meetings and were prohibited from reviewing various financial records. As will be discussed in more detail, *infra*, Chapter IV, the exclusion of the Trustees, as well as other GEB actions, minimized the effectiveness of the Trustees.

D. Resolutions on Financial Matters

Two of the blanket resolutions approved by the GEB addressed the IBT's financial priorities and accountability. In the resolution on accountability, the GEB resolved that "the new Teamsters will have as its first and foremost priority an unswerving dedication to the needs and aspirations of its members, and will devote its staff and resources to attaining the goals that the members endorsed in the 1991 International Officer Election."¹⁷⁷ This resolution also directed the IBT to "implement fundamental changes which would make the International more responsive to the needs of its members and affiliates,"¹⁷⁸ and to "devote its attention and energies towards providing the resources and services that its members and affiliates so desperately need."¹⁷⁹ In the resolution on financial priorities, the GEB pledged to

adopt and implement sound financial policies which will ensure that our members' dues are spent in the most cost-effective and accountable manner possible; and...to make any and all changes necessary to implement the rigorous financial policies which will make this Union accountable and responsive to its members and

¹⁷⁶ Id.
¹⁷⁷ Id. at 16.
¹⁷⁸ Id.
¹⁷⁹ Id.

which the Executive Board has promised our members...at the earliest possible date.¹⁸⁰

To that end, the General Executive Board directed Mr. Carey to appoint a committee to conduct “a thorough, top-to-bottom review of all financial practices, policies and records...and to promptly compile a report and submit recommendations...to include provisions for the formulation of an annual budget.”¹⁸¹

The April 1992 Board Meeting

At its second meeting, the GEB members learned of the IBT’s continuing financial losses, including the reduction of the union’s net worth to approximately \$154 million.¹⁸² Secretary-Treasurer Sever told GEB members that, “for 1993, a formal budget and planning process will be used to allocate resources and control spending.”¹⁸³ As the Subcommittee would learn, notwithstanding this representation, the IBT still does not have a formal budget.

The Board then moved on to administrative and financial matters related to the IBT’s pension plans. At the time, the IBT had three retirement plans covering International officers and employees, the largest of which was the Teamsters Affiliates Pension Plan (“TAPP”), a defined benefit pension plan providing benefits to officers and employees of local Teamsters’ chapters. The other pension plans, which covered

¹⁸⁰ Id. at 18-19.

¹⁸¹ Id. at 18.

¹⁸² The Subcommittee’s report generally cites figures reported by the IBT in the union’s audited financial statements. Those amounts may be different from amounts shown on the LM-2 Forms filed by the IBT with the U.S. Department of Labor. The reason for that difference is that the audited financial statements use accrual accounting while the LM-2 forms use a hybrid cash basis.

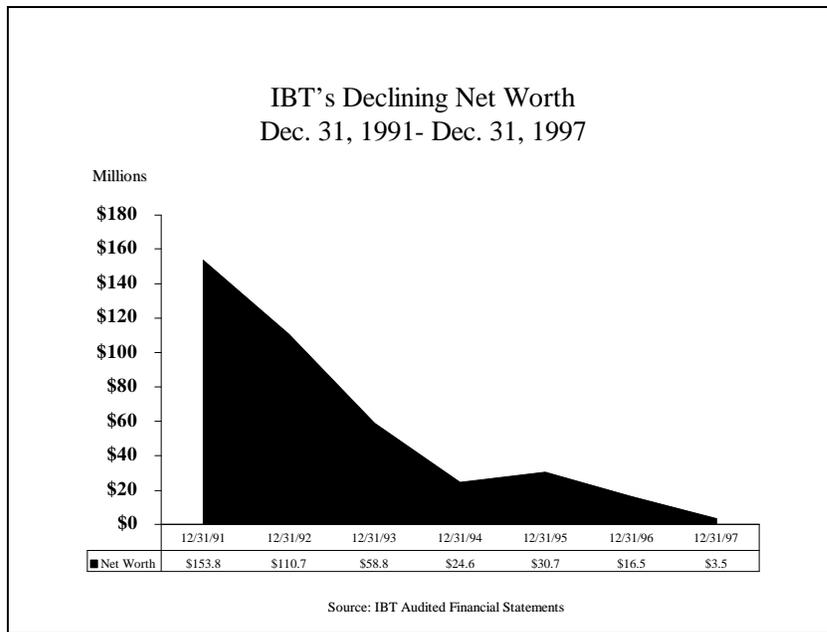
¹⁸³ GEB Minutes, April 27-28, 1992 at 17. Exhibit 26.

employees of the International Union and the IBT’s subsidiary building corporation, were the Retirement and Family Protection Plan (“RFPP”) and the Equity Plan.¹⁸⁴ Actions taken by the GEB with respect to the TAPP and RFPP are discussed, *infra*, Chapter V.

General Fund Loses Half Its Value

The IBT’s financial difficulties was a major topic at the GEB’s July 1992 meeting and continued to be a major concern throughout Ron Carey’s tenure as General President.

The following chart depicts the IBT’s plummeting net worth:



GEB Considers a Dues Increase

As 1994 started, the GEB received unwelcome news from Secretary-Treasurer Sever, who said that “tough decisions will have to be made, such as proposing to increase

¹⁸⁴ Id.

the membership dues by 2½ times the hourly rate.”¹⁸⁵ Urged on by Mr. Sever, the GEB resolved to “conduct a secret ballot mail referendum of the membership to amend the International Constitution to provide for a dues and per capita tax increase.”¹⁸⁶ The IBT’s members, however, had other ideas. In a vote taken during the spring of 1994, the rank-and-file rejected the proposed dues increase by a ratio of 3 to 1. Due to a lack of funds, the IBT stopped paying strike benefits as of June 1994.¹⁸⁷

Subsequently, IBT leaders explored other ways to make ends meet. For example, they made changes to the Teamsters Affiliates Pension Plan (“TAPP”), thereby freeing up money that otherwise would have been contributed to TAPP. It also appears that these changes to TAPP may have permitted an emergency assessment to remain in place longer than should have been necessary, increasing the IBT’s cash flow by approximately \$17 million a year. Simultaneously, the GEB increased spending by, among other actions, cutting the vesting period for a pension program covering IBT headquarters officials and employees, thereby allowing several key aides to Mr. Carey to vest in union-paid pensions after just three years of service.

IBT Financial Situation Improves

By early 1996, the IBT faced a new dilemma: its net worth was slowly climbing. The emergency assessment was bringing in \$17 million per year. When combined with the 1994 elimination of strike benefits, the freezing of the Affiliates Plan and other actions, the general fund reported more than \$8 million of revenues in excess of expenses. The

¹⁸⁵ GEB Minutes, January 3-5, 1994, at 13. Exhibit 27.

¹⁸⁶ Id. at 39-40. Exhibit 28.

possibility now existed that the IBT's net worth, excluding certain real estate, would be over \$25 million, thereby mandating an end to the emergency assessment. In April 1996, Secretary-Treasurer Sever told the GEB that the IBT's "net worth, less the book value of the Washington, D. C. real properties of \$7,178,000 at December 31, 1995, was \$22,779,000, which is the amount used in determining the levying of the emergency assessment."¹⁸⁸

In addition, by mid-1996, the IBT expected to reap a financial windfall resulting from the liquidation of assets of the four Area Conferences, subordinate organizations of the IBT that were dissolved in 1994. An IBT Constitutional provision addressing the revocation of a subordinate body (such as an Area Conference) states:

When the charter of a subordinate body is revoked, the subordinate body or its officers shall be required to turn over all books, documents, property, and funds to the General President or his representative, or to the General Secretary-Treasurer of the International Union...to be held until such time as the subordinate body may be reinstated or reorganized. If no reinstatement or reorganization occurs within a period of two (2) years such funds shall be transferred to the general fund.¹⁸⁹

Nonetheless, IBT leaders violated this Constitutional mandate. The IBT had revoked the charters of the Area Conferences on June 9, 1994.¹⁹⁰ At that time, KPMG Peat Marwick began auditing the Area Conference's financial holdings.¹⁹¹ On September 30, 1996, Mr. Sever told the GEB that the "net assets of the former U.S. Area Conferences are still being determined and will be finalized soon. A final accounting of these assets will be

¹⁸⁷ International Brotherhood of Teamsters, Audited Financial Report, 1994, at Footnote C. Exhibit

29.

¹⁸⁸ GEB Minutes, April 15, 1996, at. 2. Exhibit 30.

¹⁸⁹ IBT Constitution at Art. X.

¹⁹⁰ Exhibit 29 at footnote L.

included in the year-end financial statements,”¹⁹² as mandated by the IBT Constitution. The 1996 financial report, however, noted that “the IBT is currently in the process of obtaining additional actuarial calculations to finalize the decisions in providing benefits to former Area conference employees and retirees with the amount of net assets remaining in each Area Conference.”¹⁹³ The Subcommittee notes that the \$7.2 million in assets consisted primarily of cash and investments.¹⁹⁴

In fact – even though the two-year holding period expired in June 1996 – the assets of the Area Conferences were not transferred to the IBT treasury until 1998. This delay is significant because, if the IBT had transferred the assets in a timely fashion, as directed by the IBT Constitution, the emergency assessment may have ended, in turn, raising the specter that the IBT’s financial crisis would have become an issue during the 1996 union elections.

Lack of Results

Notwithstanding its own resolutions, the transition report, and the Independent Administrator’s report, the GEB never followed through on the recommended management and control changes. Instead, it chose a course of financial obfuscation and manipulation.

While this overview has briefly addressed several of the GEB’s resolutions and priorities, the following chapters discuss these subjects in greater detail.

¹⁹¹

Id.

¹⁹² Report of the General Secretary-Treasurer to the General Executive Board, September 30-October 2, 1996. Exhibit 31.

¹⁹³ International Brotherhood of Teamsters, Audited Financial Report, 1996, footnote M. Exhibit 32.

¹⁹⁴ International Brotherhood of Teamsters, Audited Financial Report, 1997, footnote M. Exhibit 33.

CHAPTER IV: QUASHING DISSENT

After assuming office in 1992, the Carey Administration moved to quiet dissent and shut the door on independent oversight. Specifically, the IBT used an internal body designed to weed out corruption as a means of targeting political opponents. IBT leaders also refused to cooperate with the International Trustees, who are charged by the IBT Constitution to audit the union books, by barring them from GEB meetings, not providing them with requested materials and seeking to discredit the auditors themselves. Through these actions, IBT leaders dramatically demonstrated that they are accountable to no one.

A. Abuse of the Ethical Practices Committee

1. Background

The Independent Administrator (“IA”) phase of the Consent Decree brought about an unprecedented focus on ethical conduct and accountability throughout the Teamsters. A report prepared by IA Frederick B. Lacey, as well as the testimony of Judge Lacey and Investigation Officer (“IO”) Charles M. Carberry before this Subcommittee, show that this focus on ethics and accountability had a tremendous effect upon the IBT. For example, Judge Lacey noted that the concept of “bringing reproach upon the IBT” was “at the heart of all of the charges filed by the Investigations Officer.”¹⁹⁵ While the IA brought charges against many individuals because of their associations with organized crime, an

¹⁹⁵ Independent Administrator Report at 8.

even greater number were against people who were found to have stolen from the union or to have committed other illegal acts.

The Consent Order called for termination of the IA's jurisdiction and creation of the IRB nine months after the 1991 election of international officers, based upon the premise that the installation of democratically-elected officials would establish an environment in which progress could be made towards union self-governance.

Nonetheless, the Consent Order recognized a need for some degree of oversight until such time as the IBT demonstrated that it was prepared to police itself. As the Independent Review Board ("IRB") noted:

The provision of the Consent Order under which the IRB was created was designed to induce or, if necessary, force the IBT and its Locals to police themselves under the monitoring and active investigative efforts of the IRB. Thus, union entities hold hearings on IRB recommended charges, which are based upon the IRB's investigation. If the union panel finds that the charged conduct occurred, it then must impose appropriate sanctions. The panel's determination is then submitted to the IRB, which then considers whether the union's findings and sanctions are adequate. If they are not so found, the union entity is so advised, which generally results in an acceptable reconsideration.¹⁹⁶

In some cases, the union entity may simply allow the IRB to adjudicate and resolve the matter, particularly if the case involves organized crime or might create a conflict of interest for the union entity.

Union Codes of Ethics

Unfortunately, most labor unions, including the IBT, have never adopted ethical codes as part of their internal governing structure. One notable exception is the United

¹⁹⁶ O&I Hearing, July 30, 1998 (publication forthcoming) (Statement of William H. Webster).

Auto Workers, which incorporated an ethical practices code into its constitution in the 1970s.¹⁹⁷ Another, the AFL-CIO, adopted a Code of Ethics at its 1957 Convention.

Under its code, AFL-CIO officials who assert their constitutional privilege against self-incrimination when called to testify at an official hearing or grand jury have “no right to hold union office.”¹⁹⁸ The AFL-CIO, however, has never enforced this provision.

Edward T. Hanley, former General President of the Hotel Employees and Restaurant Employees International Union (“HEREIU”), an AFL-CIO affiliate, appeared before a U.S. Senate Hearing in 1984 and asserted his right against self-incrimination 51 times.¹⁹⁹

Richard Trumka, Secretary-Treasurer of the AFL-CIO, asserted his Fifth Amendment privilege before a federal grand Jury in the Southern District of New York and indicated, through counsel, that he would decline to testify before this Subcommittee, consistent with his rights under the Fifth Amendment.²⁰⁰ The AFL-CIO has taken no action against Mr. Hanley or Mr. Trumka for these actions.²⁰¹

The advent of government oversight of three major unions, imposed as the result of civil RICO proceedings, has highlighted the need for a code of ethics within the union structure. In January 1995, DOJ and HEREIU agreed to a code of ethics as part of a consent decree.²⁰² This code set standards for union financial practices, personal business

¹⁹⁷ Kannar at 1676-7.

¹⁹⁸ Proceedings of the Meeting of the Executive Council of the AFL-CIO, January 28, 1957. Exhibit 34.

¹⁹⁹ *Hotel Employees and Restaurant Employees International Union*, Hearings Before the Permanent Subcomm. on Investigations, U.S. Senate Comm. On Governmental Affairs, 98th Cong., 2nd Sess., Part 5, May and June 1994, at 23-34.

²⁰⁰ See, Exhibit 1.

²⁰¹ O&I Hearing, April 30, 1998 at 27, 36, 38.

²⁰² US v. Hotel Employees and Restaurant Employees International Union, et. al., Civ. No. 95-4596 (GEB) (S.D.N.J.), Consent Decree, September 5, 1995.

activities of union officials, and management of health, welfare and retirement funds.²⁰³ It also established a Public Review Board to “review complaints and conduct hearings whenever necessary to ensure the high moral and ethical standards in the [union’s] administration and operational practices.”²⁰⁴

Around the same time, DOJ also prepared a civil RICO complaint against the Laborers’ International Union of North America (“LIUNA”). Prior to filing the complaint, however, the DOJ and LIUNA negotiated an agreement, in which LIUNA established an Office of Inspector General with broad oversight powers. In addition, LIUNA adopted a code of ethics governing the conduct of officers, employees and members.

Following his election, Ron Carey instituted an Ethical Practices Committee (“EPC”) under the General President’s authority delineated in the IBT Constitution.²⁰⁵ The EPC, however, was not accompanied by a Code of Ethics for it to enforce.

The need for continued government oversight and ethical codes is overwhelmingly clear. Although the term “corruption” is mentioned in most consent decrees, organized crime infiltration and control of unions is typically the paramount concern. Court-appointed union overseers, however, have found that a large percentage of union corruption takes the form of embezzlement of union funds by unscrupulous labor leaders, and does not necessarily involve organized crime. For example, the following are a few of many examples of incidents uncovered as a direct result of the imposition of government oversight of HEREIU:

²⁰³ Hotel Employees and Restaurant Employees International Union Constitution, Art. XXII, at 69-71.

²⁰⁴ *Id.* at 73.

²⁰⁵ Letter from Ronald Carey to all IBT affiliates, October 1992. Exhibit 35.

- The son of a union president, who also was an official of the local, was found to have been routinely purchasing cocaine with union funds.²⁰⁶
- The president of a local union was also employed by two other locals and an international union. He spent 4 months a year vacationing in Florida. When confronted by investigators, he admitted that he was the full-time President of all four unions, which he ran from a single office. When asked about his four months annual vacation, he said he received a month vacation from each of the four unions.²⁰⁷
- An international union maintained a “regional office” in Palm Springs, California, where the general president maintained a winter home. He seldom, if ever visited this “regional office,” even when he was residing in that city. The only employee of this “regional office,” was his mother-in-law.²⁰⁸
- The general president of an international union received a salary and benefits from a local union operated by his son. Investigators were unable to establish that the general president did any work for this local, over an eight-year period.²⁰⁹
- The general vice president of an international union routinely charged his meals, alcoholic beverages and tips to the union, and required a union employee to wear a chauffeur’s hat and drive him to and from restaurants, after working hours, in the union’s limousine. He routinely left gratuities exceeding 50% of the purchase. (In one instance, an \$80 gratuity was provided for a \$5.80 restaurant charge.)²¹⁰
- An international union president gave \$450,000.00 in union funds to a foundation building a basketball arena in Dublin, Ireland. The arena was eventually dedicated in the general president’s name. He led two delegations of union employees and friends to Ireland, at union expense, for the ground breaking and dedication ceremonies. The general president and a few close friends used the union’s aircraft for these trips.²¹¹

²⁰⁶ US v. HEREIU, 95-4596 (GEB)(D.C.N.J.) (*Report of Kurt W. Muellenberg, Court-appointed Monitor*, September 5, 1995 through August 25, 1998, attachment at 5).

²⁰⁷ Id. at 6-7.

²⁰⁸ Id. at 46.

²⁰⁹ Id. at 67; and staff interviews with former federal investigators.

²¹⁰ Id. at 12; and staff interviews with former federal investigators.

²¹¹ Id. at 40; and staff interviews with former federal investigators.

Unfortunately, HEREIU, LIUNA, and the IBT are not the only unions with these types of problems. In 1998, questionable and illegal activities have come to light at other unions.²¹²

2. Findings

A resolution adopted at the 1991 IBT International Convention created the Ethical Practices Committee to function in lieu of the IRB. That version of the EPC never became operational because the Department of Justice objected, as was the government's right under the Consent Order. The IBT was not deterred, however. When Mr. Carey presided over his first meeting of the General Executive Board on February 3, 1992, he introduced a resolution that, in part, read:

the General President will establish and appoint members to an Ethics Subcommittee, whose mandate will be to make concrete recommendations concerning the immediate establishment of an Ethical Practices Committee...[and] that this Ethics Subcommittee will report back to the General President and General Executive Board within sixty (60) days with specific proposals concerning the staffing, functioning and duties of the Ethical Practices Committee; ...[and] that the General President and the General Executive Board are firmly committed to ending Government supervision of the affairs of the International Brotherhood of Teamsters and substituting an effective and vigorous Ethical Practices Committee to ensure that this Union operates democratically and free from corruption at all levels.²¹³

Ron Carey's EPC differed significantly in structure and procedures from the version adopted at the 1991 IBT Convention. For example, the original version specified

²¹² See, for example, *Union Turkeys*, Wall Street Journal, November 24, 1998, at A-22; *Time for a Union Takeover*, New York Times, November 25, 1998; Steven Greenhouse, *National Leaders Arrive to Take Over Municipal Union*, New York Times, December 1, 1998, at A27.

²¹³ Exhibit 6 at 14-15.

that “any person summoned to answer charges before the [EPC] may be represented by counsel, in addition to a fellow member in good standing. The [EPC] may adopt rules of procedure which do not diminish rights of parties as established by this Constitution or applicable law.”²¹⁴ Mr. Carey’s version, on the other hand, specifically denied accused parties the right to representation by counsel at EPC hearings and even went so far as to prohibit representation by another member if that person was a licensed attorney.²¹⁵

The January/February 1993 issue of *Teamster Magazine* announced that all of the newly appointed EPC members had passed extensive background checks conducted by a professional investigative firm and that the EPC had become operational. The article identified all panel members by name and position and explained the structure and procedures of the EPC as follows:

- The 15-member committee, appointed by General President Ron Carey, is composed of a rank-and-file member, a local union officer, and an International vice president from each of the five conferences.
- Complaints first go to International Vice President Aaron Belk, who is serving as EPC’s administrator in IBT Headquarters in Washington, DC.
- If there are reasonable grounds to believe a violation has occurred, a hearing will be held by the three EPC members for the appropriate conference.
- The panel will make recommendations for action to the General President, who can impose sanctions ranging from censure to fines or expulsion.
- His decisions can be appealed to the General Executive Board.
- Complaints which do not involve an imminent danger to the welfare of the union but may require further action will continue to be referred to local unions or joint councils, with the right of eventual appeal to the General Executive Board.²¹⁶

²¹⁴ IBT Constitution, Art. XIX.

²¹⁵ Exhibit 35.

A review of EPC rules and procedures shows that the EPC Administrator had the authority to conduct investigations and hire investigators as needed. Specifically, a memorandum signed by Ron Carey requires the Administrator to “take investigatory steps to corroborate the information from the various sources.”²¹⁷ The memorandum empowers the Administrator:

“to call upon the International Representatives assigned to each Conference for such investigative or other assistance as may be required to fulfill the responsibilities of the EPC, and to retain or contract with such independent outside auditors, accountants, licensed private investigators and/or other professionals as may be necessary to conduct EPC business, subject to the approval of the General President.”²¹⁸

There is no mention in the EPC policy memoranda of the Office of General Counsel having investigative authority in cases pending review by the EPC; however, interviews and IBT documents revealed that the Office of General Counsel was actively involved in EPC investigations without the knowledge of the EPC Administrator.

EPC Abuses

Individuals interviewed by Subcommittee staff, including Charles Carberry, Chief Investigator for the IRB, as well as current and former IBT officials, said that Mr. Carey used the EPC to neutralize or punish his political adversaries. Mr. Carberry, for example, characterized the EPC as a “political arm” of the IBT officers and an entity with which he limited his official contact to providing only publicly available information.²¹⁹

²¹⁶ *Ethical Practices Committee Now in Full Swing*, Teamster Magazine, January/February 1993, at

21.

²¹⁷ Exhibit 35.

²¹⁸ *Id.*

²¹⁹ Staff interview of Charles Carberry, June 12, 1998.

One EPC panel member indicated that the panel on which he served conducted hearings on approximately eight cases and, with the exception of its first case concerning a matter predating the Carey Administration, every one of the individuals accused of wrongdoing was a political adversary of Ron Carey.²²⁰ This panel member also stated that some matters brought before his panel, even if proven to be true, were not significant enough to justify charges at the International Union level.²²¹ These examples of trivial EPC cases included an individual who disrupted a local union meeting, a local union official who permitted a management official to read his resume into the record of a freight grievance panel hearing, and a local official in a hiring hall who was accused of not offering job assignments with the frequency that one member thought was appropriate.²²² This panel member also provided examples of cases where Mr. Carey overruled panels in order to increase the severity of disciplinary action, and pointed out that Mr. Carey never reduced the degree of punishment recommended by a panel.²²³ These practices clearly contravene the original stated purpose of the EPC, which was:

to investigate allegations of corruption or serious wrongdoing that pose an imminent danger to the welfare of the union. Complaints which do not involve an imminent danger to the welfare of the union but may require further action will continue to be referred to local unions or joint councils, with the right of eventual appeal to the General Executive Board.²²⁴

The EPC structure and procedures, as well as Carey Administration rhetoric, would lead one to believe that the EPC was a means by which union *members* could seek redress at the headquarters level in situations involving allegations of egregious conduct

²²⁰ Staff interview of Phillip A. Feaster, July 15, 1998.

²²¹ Id.

²²² Id.

²²³ Id.

by union officials.²²⁵ It is apparent, however, that IBT headquarters officials used the EPC to target political adversaries. It also appears that EPC cases may have been generated by headquarters officials who provided the results of their investigations to “friendly” rank and file members and then had them file formal complaints with the EPC.²²⁶ Thus, IBT officials were able to create an illusion of objectivity when, in fact, cases actually originated from the Carey Administration’s investigations and audits.

In one case, R.V. Durham, then president of Local 391, was the target of EPC auditors. Mr. Durham had opposed Mr. Carey as a candidate for General President in 1991. Three auditors conducted an unscheduled financial audit of Local 391 for several days. While on-site, the auditors alleged that there were no records to support the Local’s expenditures in connection with the 1991 Convention. On the eve of the auditors’ departure, employees of the Local conducted a thorough search of the room in which the auditors had been working and found the “missing” records, which apparently had been buried under other unrelated documents. Review of the records established that the Local’s Convention expenditures were appropriate and properly documented. Consequently, the audit failed to uncover any evidence to discredit Mr. Durham.²²⁷

Another case involved John Murphy, Secretary-Treasurer of Local 122,²²⁸ and an unscheduled audit that occurred after Mr. Murphy told the Election Officer about information that was instrumental in overturning the 1996 re-election of Ron Carey. According to Mr. Murphy, the auditor told him that the objective was to find evidence of

²²⁴ *Ethical Practices Committee*, Teamster Magazine, January/February 1993, at 21.

²²⁵ Untitled articles, Teamster Magazine, June/July 1992, September 1992, January/February 1993, September 1993, and December 1995.

²²⁶ Interviews of R.V. Durham, August 9, 1998 and John Murphy, September 21, 1998.

²²⁷ Interview of R.V. Durham, August 9, 1998.

any donations that his local may have made to The Real Teamsters Caucus, a dissident group founded by Mr. Murphy. The audit disclosed no wrongdoing.²²⁹

In some cases, according to an EPC member, attorneys representing the Office of General Counsel interceded in panel deliberations in obvious efforts to influence the recommendations. One such abuse of the EPC involves the case of Ernest R. Tusino of Local 170. The National Labor Relations Board (NLRB) filed a complaint against Mr. Tusino alleging “employment discrimination through a hiring hall.”²³⁰ The NLRB found Mr. Tusino culpable because he had no documented hiring hall procedures or protocol.²³¹

An EPC hearing was convened after the NLRB had ruled against Mr. Tusino. The EPC found Mr. Tusino not culpable; however, Mr. Carey overruled the panel and suspended him from membership in the union for three months and from holding office or a representative post for two years.²³² Numerous witnesses attribute the action taken against Mr. Tusino to his outspoken opposition to Mr. Carey.²³³

Phillip A. Feaster, one of the panel members on the Tusino case, said the case was extraordinary from the very beginning, mainly because the charges originated with the International, rather than a member. He said that the panel members had “all agreed there was no case against him.”²³⁴ Mr. Feaster also said that he had engaged in a heated discussion with George Davies about the panel’s conclusion that Mr. Tusino did not

²²⁸ The Subcommittee notes that Mr. Murphy ran on Mr. Hoffa's slate in the 1996 rerun election.

²²⁹ Interview of John Murphy, September 21, 1998.

²³⁰ See, generally, Ernest R. Tusino, JD-CA-9045 (MA).

²³¹ Interview of John Murphy, September 21, 1998.

²³² In the Matter of Ethical Practices Committee Charges Against Ernest R. Tusino, Decision of the General President, March 14, 1996, at 9. Exhibit 36.

²³³ Interviews of R. V. Durham, August 9, 1998; Phillip A. Feaster, July 15, 1998; and William F. Urman, October 19, 1998. See, also, Letter from Marie J. Parente, Massachusetts State Representative, to Chairman Hoekstra, December 11, 1997. Exhibit 37.

²³⁴ Interview of Phillip A. Feaster, July 15, 1998.

deserve to have any disciplinary action taken against him. Mr. Davies, an attorney with the firm of Nakamura and Quinn in Birmingham, Alabama, was hired by the IBT General Counsel to attend the Tusino EPC hearing, ostensibly to render legal advice to the panel.²³⁵ Mr. Feaster and William F. Urman, who headed the Tusino panel, told Subcommittee staff that Judy Scott, IBT General Counsel, telephoned them to provide unsolicited advice about how the panel should handle the case between the hearing and the submission of the panel's formal recommendations.²³⁶

Mr. Urman said that the case against Mr. Tusino was presented by an IBT representative from Washington, DC, who called no witnesses and merely restated evidence previously presented at the NLRB hearing. He said that Mr. Tusino called five or six witnesses who testified on his behalf and that the panel members were bothered that the IBT did not produce a complainant or any other witness in support of its case.

Mr. Urman also said that he thought it was highly unusual for him to receive a telephone call from the IBT General Counsel under any circumstances, and that it was obvious to him that Ms. Scott placed the call because she had learned of the panel's reluctance to recommend disciplinary action against Mr. Tusino. According to Mr. Urman, Ms. Scott informed him of the legal concept, "res judicata,"²³⁷ and of its procedural requirements that, she claimed, had application to the Tusino case. Mr. Urman said that Ms. Scott explained to him that "res judicata" required that equal weight be given to the introduction of evidence originating from another trial body, despite the fact that witnesses did not appear before the EPC panel to repeat their testimony and submit to cross

²³⁵

Id.

²³⁶

Interview of William F. Urman, October 19, 1998.

²³⁷

Id.

examination. He also said she told him that, given the same evidence, the EPC panel would have to arrive at the same conclusion as was reached in the NLRB case.²³⁸ Ms. Scott could not recall such a conversation with Mr. Urman.²³⁹

John Murphy said that Ira Sills, an adjunct professor at Northeastern University and a former professor of Ms. Scott, had told him that Ms. Scott had approached him and asked to him handle a civil suit Mr. Tusino had filed against the IBT. According to Mr. Murphy, Mr. Sills said that he had berated Ms. Scott for what she had done to Mr. Tusino, and she had admitted that the Tusino case was “political.”²⁴⁰ When contacted by Subcommittee staff, Mr. Sills acknowledged that he had been approached by Judy Scott, who asked him to represent the union in the Tusino suit. Mr. Sills declined to further discuss his conversation with Ms. Scott, saying that it was a confidential matter between two attorneys. However, Mr. Sills did opine that the Tusino case was “politically charged.”²⁴¹

For her part, Ms. Scott testified:

I believe Mr. Tusino opposed certain programs of President Carey, but I frankly don't recall specifically what they were. I don't know how aggressive an opponent he was or not. I don't recall if he was on any of the slates in the 1996 elections. So I at this time don't have a personal recollection of specifically what his stands were on particular matters.²⁴²

When asked whether she ever told anyone that the Tusino matter was being pursued for political reasons, her response was: “No, not that I would recall, and it would not be something that I would believe would have happened. So I don't recall such a

²³⁸

Id.

²³⁹ Deposition of Judith A. Scott, October 24, 1998, at 46.

²⁴⁰ Interview of John Murphy, September 21, 1998.

²⁴¹ Interview of Ira Sills, October 19, 1998.

conversation.”²⁴³ She also said she did not recall having had conversations with Mr. Sills concerning the Tusino matter.²⁴⁴

3. Conclusions

The Subcommittee questions the motives of those who created the EPC without establishing a documented code of ethics to enforce. The IBT has neither incorporated a code of ethics into its constitution, nor established an educational program to ensure that people throughout the union have an understanding of expectations for standards of conduct. Absent the constant vigilance of an IA, IRB, or some other independent overseer, rank-and-file members have no mechanism to protect their rights. At this point, the EPC simply is no substitute for the oversight provided by the government through the Consent Order. To the extent the EPC was envisioned as a vehicle to end the need for government supervision, it has failed in significant respects.

B. International Trustees

1. Summary

Although the Teamsters’ General Executive Board pledged to make organizational changes and increase accountability to its membership, the union did not succeed in implementing sound governance or financial policies. In fact, the GEB interfered with the duties and activities of the union’s three International Trustees, who are IBT officers charged with auditing the union’s books every six months. From 1993 to 1995, IBT

²⁴² Scott Depo. at 43.

²⁴³ Id.

²⁴⁴ Id. at 47.

officials delayed and obstructed the Trustees' semiannual audits, denied them access to financial data and personnel, and excluded them from meetings of the General Executive Board. These actions were part of a power struggle over the role of the Trustees, which began after the Trustees wrote a memorandum in 1993 expressing their alarm at the IBT's financial condition. The memo also offered proposals designed to reverse the union's annual spending deficits. From that point onward, cooperation between the GEB and the Trustees virtually ceased.

2. Findings

Duties of the International Trustees

The IBT Constitution broadly outlines the duties of the International Trustees:

The Trustees shall review the books of the General Secretary-Treasurer once during each six-month period, utilizing the assistance of Certified Public Accountants designated by the General President, and report their findings immediately to the General President, and he shall, in turn, report to the General Executive Board. Such review shall include the books respecting all properties and facilities under the custodianship of the General Secretary-Treasurer. A copy of such semi-annual reports of the Trustees shall be furnished to the members of the General Executive Board.²⁴⁵

Because of its ambiguous wording, this section permits varying interpretations.

This lack of specificity enabled the General President and the General Secretary-Treasurer to minimize the Trustees' involvement in the union's financial affairs.

The Subcommittee learned that IBT General Secretary-Treasurer, Tom Sever, narrowly viewed the Trustees' authority to review books kept by his office. He testified

²⁴⁵ IBT Constitution at Art. VIII, Sec. 1.

that the role of the International Trustees is “to review the receipts and expenditures of the IBT”²⁴⁶ and to submit a report “once they are concluded with their reviews,”²⁴⁷ indicating “that they have reviewed the receipts and expenditures of the IBT and normally they have found them within the accounting principles and standards of accounting.”²⁴⁸ The Subcommittee notes Mr. Sever repeatedly seized upon the phrase, “once during each six-month period” to justify his refusal to allow the Trustees to review the books on more than one occasion, or for more than one six-month period.

In contrast, the Trustees viewed their constitutional duties to conduct reviews in a much broader sense as financial watchdogs. According to one of the Trustees: “We had a fiduciary responsibility to check the books twice a year, and prior to this administration coming on, we could go in and basically ask for anything that we wanted and we would get it. We could review any department heads, directors of departments, and we could go over everything with a fine-toothed comb.”²⁴⁹ This comity ceased during the Carey Administration.

Power Struggle

On August 3, 1993, the International Trustees sent a memorandum entitled “Where is the I.B.T. Headed?” to Ron Carey and the GEB members.²⁵⁰ The Trustees wrote: “Pursuant to our responsibilities as International Trustees, we reviewed the financial and other records and interviewed many of the department heads at our

²⁴⁶ Deposition of Thomas L. Sever, October 8, 1998, at 16.

²⁴⁷ Id.

²⁴⁸ Id. at 17.

²⁴⁹ O&I Hearing, March 26, 1998 (publication forthcoming).

Washington, D.C. headquarters while at the Trustee Meetings. Based upon our findings, we believe there is cause for alarm.”²⁵¹ The Trustees then proposed dozens of cost-cutting measures, including: an immediate hiring freeze; the elimination of all non-essential positions; a halt to paying IBT employees’ share of FICA; an end to unlimited sick leave; the elimination of IBT credit cards; stricter expense reimbursement policies; a review of Organizing Department activities; less frequent publication of the IBT Magazine; reduced payments to the AFL-CIO; and even a more modest lunchroom menu.²⁵² This memorandum generated resistance from IBT headquarters, including criticism from Mr. Carey, exclusion from GEB meetings, and a change in the method by which International Trustees were selected, in an obvious attempt to fill the positions with Carey loyalists.

First, Mr. Carey told the Trustees that their suggestions would not solve the union’s fiscal crisis and that many had already been implemented. He went on to say that he was “committed to providing the members of this Union with the services necessary to deal with the issues that affect their lives. This cannot be achieved by cutting back on the resources and benefits currently available to them, as you have suggested.”²⁵³ Mr. Carey then questioned the Trustees loyalty, stating that they “never questioned prior administrations’ wasteful or corrupt practices”²⁵⁴ and that they “never questioned the

²⁵⁰ Memorandum from Ben Leal, Robert DeRusha, and Robert Simpson to Ron Carey, August 3, 1993. Exhibit 38.

²⁵¹ Id.

²⁵² Id.

²⁵³ Memorandum from Ron Carey to Ben Leal, Robert DeRusha, and Robert Simpson, September 17, 1993. Exhibit 39.

²⁵⁴ Id.

various personnel policies we are now moving to fix, when you served under prior administrations that created them.”²⁵⁵

Second, the Trustees were excluded from the GEB’s quarterly meetings. Under the IBT Constitution, the Trustees are not members of the GEB, so their attendance was dependent upon the wishes of the Board. According to International Trustee Robert DeRusha, before the Trustees sent their critical memorandum of August 3, 1993,

The International Trustees attended every quarterly meeting of the General Executive Board. We were given copies of the same financial reports, minutes and other documents that were given to the other International Union officers. We were present during the entire meeting, including the financial report given by the General Secretary-Treasurer. Although we did not have a vote, we participated, commented on matters coming before the GEB, particularly with respect to financial matters, and had an equal opportunity to ask questions with the other officers.²⁵⁶

But in April of 1994, the Trustees were informed that they should not plan to attend the GEB meeting later that month.²⁵⁷ While there is no dispute over the fact that the Trustees were excluded from GEB meetings from that point forward, the parties disagree over why the Trustees were frozen out. The Trustees viewed their exclusion as retaliation for criticizing the union’s financial management. Trustee DeRusha said, “as a result of our letter, the International Union Trustees suddenly went to the top of Brother Carey’s enemies list.”²⁵⁸ Mr. Carey simply said that the Trustees were not invited,

²⁵⁵

Id.

²⁵⁶ O&I Hearing, March 26, 1998 (publication forthcoming).

²⁵⁷ Letter from Aaron Belk to Ben Leal, Robert DeRusha, and Robert Simpson, April 1, 1994. Exhibit 40.

²⁵⁸ O&I Hearing, March 26, 1998 (publication forthcoming).

because they were not GEB members.²⁵⁹ In addition, Mr. Sever testified that “there were allegations that information, financial [information], may have been leaked from the IBT headquarters, but I have no personal knowledge if that ever happened.”²⁶⁰ Judy Scott and Joseph Selsavage made similar statements under oath, but none of these IBT officials had personal knowledge to support these allegations or the basis for them.²⁶¹

Third, IBT personnel denied the Trustees access to financial information that the Trustees viewed as necessary for their work.²⁶² As Mr. Simpson explained, “once the money started leaving and we started questioning what was happening with the money, then suddenly this open thing of giving us the records and letting us have copies and talking to the various department heads and directors – it ceased.”²⁶³ Two weeks after their exclusion from the April GEB meeting, the Trustees wrote to Mr. Sever regarding several outstanding issues from their audit. Information for 1994 was first on the list: “We repeat our demand to see the financial statements, books, records and other information showing the Union’s current financial status....[T]his information is absolutely necessary for us to fulfill our duties as the Union’s financial watchdogs.”²⁶⁴ The Trustees also requested information on other issues, including the cost of conducting a mail

²⁵⁹ GEB Minutes, April 25-29, 1994, at 2. Exhibit 41. The IRB later concurred with this view, stating, “it does not appear that any provision of the IBT Constitution was violated” by excluding the Trustees, and “it does not appear that you have been prevented from performing your duties as International Trustees.” See, Letter from John J. Cronin, Jr. to Ben Leal, Robert DeRusha, and Robert Simpson, August 16, 1994. Exhibit 42.

²⁶⁰ Sever Depo. at 54.

²⁶¹ Scott Depo. at 26; Deposition of Joseph Anthony Selsavage, September 17, 1998, at 90.

²⁶² O&I Hearing, March 26, 1998 (publication forthcoming).

²⁶³ Id. at 64.

²⁶⁴ Letter from Robert G. DeRusha and Ben Leal to Tom Sever, May 5, 1994. Exhibit 43.

referendum on a dues increase, the number of employees in each department and their salaries, loan documents, travel expenses, legal expenses, and other matters.²⁶⁵

Mr. Sever denied these requests in a letter dated five days later. He noted:

You are currently conducting the audit for the six month period of July 1, 1993 through December 31, 1993. As stated above, such audits are to occur once. Prior six month audits for 1992 and the first six month period of 1993 have already been completed....I will continue to provide you the books necessary to perform the pertinent six month audit, now being July 1, 1993 through December 31, 1993. 1994 financial data is not relevant at this time.²⁶⁶

Mr. Sever further explained in his deposition, “they wouldn’t have an unlimited right to have, you know, records that [were not] involved with the finances during that 6-month period.”²⁶⁷ It is important to note that the same financial information dismissed on May 10, 1994 by Mr. Sever as irrelevant to the Trustees’ audit led the GEB to institute an emergency dues assessment one week later.

The dispute over this audit continued for many months. The Trustees wrote to every GEB member in July, stating “we have been unable to complete our semiannual report because the information we have requested, including specific information concerning 1993 financial matters, has not been made available to us.”²⁶⁸ In his deposition, Mr. Sever denied this charge: “If they had a request to look at those expenditures, I am certainly sure that we would have provided the opportunity or our

²⁶⁵ Id.

²⁶⁶ Letter from Tom Sever to Ben Leal, Robert DeRusha, and Robert Simpson, May 10, 1994 (emphasis in original). Exhibit 44.

²⁶⁷ Sever Depo. at 158.

²⁶⁸ Letter from Ben Leal, Robert DeRusha, and Robert Simpson to Ron Carey, et al., July 11, 1994. Exhibit 45.

staff, again, Joe Selsavage and Jim Bosley, would have given them that opportunity.”²⁶⁹ By October 1994, it appeared as if the Trustees would finally be able to complete the audit, but on October 27, Mr. Carey sent them a letter explicitly directing them not to come to Washington to do so, simply stating “we cannot accommodate you that week.”²⁷⁰

Mr. Carey’s letter did not end the dispute over access to records and personnel, which continued through 1995. At one point, Mr. Sever threatened to have Mr. DeRusha investigated, and in fact, Mr. DeRusha’s local union was audited two weeks later.²⁷¹ No problems were discovered.²⁷²

Resolving the Matter

The Trustees sought relief from the GEB’s obstructionist tactics in several ways. At an April 25, 1994 GEB meeting, an International Vice President made a motion to allow the Trustees to remain in the meeting, but President Carey ruled the motion out of order.²⁷³ The GEB also denied an appeal filed by the Trustees to allow them to attend the meeting.²⁷⁴ Finally, the GEB barred the Trustees’ access to financial records that they had been seeking.²⁷⁵

²⁶⁹ Sever Depo. at 28.

²⁷⁰ Letter from Ron Carey to Ben Leal, Robert DeRusha, and Robert Simpson, October 27, 1994. Exhibit 46.

²⁷¹ O&I Hearing, March 26, 1998 (publication forthcoming).

²⁷² *Id.* In her deposition, Judy Scott, former IBT General Counsel, testified that “there was concern about sharing information with these International Trustees because . . . two of these individuals were the subject of IRB charges or other matters.” See, Scott Depo. at 21. The Subcommittee notes that Mr. Simpson was under investigation by the IRB at that time; the other Trustees were not. Nor is it clear how Ms. Scott would have known of the investigation, as the IRB keeps its ongoing investigations confidential.

²⁷³ Exhibit 41 at 1-2.

²⁷⁴ GEB Minutes, May 16-17, 1994, at 7. Exhibit 47.

²⁷⁵ GEB Minutes, July 11-12, 1994, at 6. Exhibit 48.

The Trustees also attempted to have the IBT's International Convention review their appeals.²⁷⁶ The Teamsters' Convention was held in 1996, but, apparently, these appeals were not addressed at that time. Ms. Scott testified that "it may very well have been that this was scheduled to be heard. I don't believe it ended up being addressed on the convention floor."²⁷⁷ Mr. Sever stated: "I don't recall if this appeal went to the convention...[W]e didn't...complete all of the work at the convention, and there were many appeals that were not decided."²⁷⁸ The Subcommittee notes that Mr. Carey was chairman of the Convention and set the agenda and schedule.²⁷⁹

Following this power struggle, the IBT moved to change the Trustees' method of election. Previously, the Trustees had been elected at the IBT's International Convention.²⁸⁰ On December 14, 1994, the IBT and the U.S. Attorney for the Southern District of New York jointly applied to Judge Edelstein to modify the 1989 Consent Order, stating: "providing for Trustees to be elected by direct rank-and-file voting as part of the International Union Officer election best serves the purposes of the Consent Order."²⁸¹ Judge Edelstein agreed, issuing an order granting the request the following week.²⁸² In the 1996 election, the candidates for International Trustee on the Carey Slate

²⁷⁶ Letter from Ben Leal, Robert DeRusha, and Robert Simpson to Tom Sever, July 20, 1994. Exhibit 49. Letter from Ben Leal, Robert DeRusha and Robert Simpson to Tom Sever, August 8, 1994. Exhibit 50.

²⁷⁷ Scott Depo. at 36.

²⁷⁸ Sever Depo. at 47.

²⁷⁹ IBT Constitution at Art. III, Sec. 9(d).

²⁸⁰ Id. at Art. IV, Sec. 2(b).

²⁸¹ US v. IBT, et al., 88 Civ. 4486 DNE, (S.D.N.Y.) (Stipulation & Order Modifying Paragraph 12(D) of the March 19, 1989 Consent Decree), December 21, 1994.

²⁸² Id.

emerged victorious. The Subcommittee notes that the Trustees elected on the Carey Slate were permitted to attend GEB meetings.²⁸³

3. Conclusions

The Subcommittee concludes that the power struggle over the role of the International Trustees undermined the union's financial integrity. Although there are conflicting accounts of whether the Trustees received all of the information to which they were entitled, the Subcommittee finds that Teamsters officials sought to minimize the Trustees' ability to provide meaningful oversight on behalf of the union's membership. The International Trustees are a mechanism designed to ensure that the Teamsters' senior officials are accountable for their management – or mismanagement – of the union financial affairs. The ability of the Teamsters' leadership to withhold financial information from the Trustees was a troubling and dangerous precedent, and may have been a harbinger of the corruption and mismanagement that followed.

²⁸³ Sever Depo. at 17.

CHAPTER V:
FINANCIAL MISMANAGEMENT

The Carey Administration ignored recommendations designed to improve the union's finances and impose financial discipline. During their tenure, Carey Administration officials allowed the union's net worth to decline by more than \$150 million (January 1992-December 1997) through a pattern of overspending and a lack of overall financial controls. In short, the IBT leaders demonstrated a disregard for the needs of the rank-and-file members, and a preoccupation with their own image.

A. Failure to Make Basic Recommended Control Changes

The IBT leadership has known for at least the last six years that the IBT lacks fundamental financial control and review procedures. In 1992, Frederick B. Lacey, the Independent Administrator ("IA") issued a report summarizing his work and the work of the other court-appointed officers. Among other things, this report detailed the results of a review by the IA and his staff of the IBT's financial management systems.²⁸⁴ Through this review process, the IA "uncovered a number of areas with great potential for fraud, waste and abuse"²⁸⁵ and identified \$14.2 million in savings.²⁸⁶

As a result of his review, the IA in 1992 concluded that the lack of effective financial management control at the IBT resulted in substantial losses of IBT funds over many years. In his report, the IA recommended three major actions to correct what he

²⁸⁴ Independent Administrator Report at 72.

²⁸⁵ *Id.* at 73.

²⁸⁶ *Id.* at 77.

termed “fundamental faults” in the IBT financial management system:²⁸⁷ (1) the implementation of a budget process; (2) the development of a comprehensive financial policy and procedures manual; and (3) the appointment of an inspector general.²⁸⁸ These recommendations were largely ignored by the IBT, which has failed to fully implement the remedial actions needed to correct the “fundamental faults” in its financial management systems. Because the IBT did not adequately correct the weaknesses identified by the IA, the problems that he reported in 1992 contributed to the worsening financial position of the IBT, including a decline in the IBT’s net worth from \$153.8 million in January 1992 to \$3.4 million in December 1997.²⁸⁹

1. The IBT’s Failure to Develop a Budget Process

The need for a budget process is rooted in basic financial management theory: a budget prioritizes the overall objectives of an organization in financial terms. As the IA stated in his report, organizations from the smallest homeowners associations to corporate giants use budgets, but the IBT did not.²⁹⁰ The General Executive Board recognized the importance of a budget process in February 1992 when it passed a resolution stating that “it is inconceivable that an organization the size of this Union operates without a budget to make it accountable to our members,”²⁹¹ and pledging to “adopt and implement sound

²⁸⁷ Id. at 76.

²⁸⁸ Id. at 126-130.

²⁸⁹ International Brotherhood of Teamsters, Audited Financial Reports, 1991 and 1997. Exhibits 51 and 33.

²⁹⁰ Independent Administrator Report at 18.

²⁹¹ Exhibit 6.

financial policies which will ensure that our members' dues are spent in the most cost-effective and accountable manner possible.”²⁹²

Nonetheless, the IBT has not adopted a budget since passage of this resolution. If the IBT had developed and maintained an annual budget tied to its accounting system, the IBT could have realized one of the most beneficial advantages of the budgetary process: permitting management to assess the variance between planned and actual revenue and expenses.

When deposed by the Subcommittee, Mr. Sever testified that the IBT developed “spending plans” for various IBT departments but said there was no attempt to hold department heads accountable for staying within established limits.²⁹³ Consequently, this system proved to be inadequate. The Subcommittee found, for example, that the IBT’s Trade Divisions and Conferences exceeded its 1994-1997 spending plans by a total of \$16 million (42%).²⁹⁴

Not only did the IA recommend that the IBT adopt sound budgetary controls, but Grant Thornton, the IBT’s independent auditor, made a similar proposal in 1992. When deposed by the Subcommittee, Steven R. Leser, the Grant Thornton partner responsible for the IBT audits, testified that the IBT spending plan was not “very effective,” and that there was not “any significant monitoring” of the plans.²⁹⁵

The Subcommittee finds that the IBT’s failure to adopt sound budgetary controls contributed to the depletion of the union’s treasury. As discussed *infra*, the Subcommittee

²⁹² Id.

²⁹³ Sever Depo. at 130.

²⁹⁴ See, generally, *General Fund Report of Revenue and Expenses*, International Brotherhood of Teamsters, December 31, 1994-December 31, 1997.

²⁹⁵ Deposition of Steven R. Leser, August 28, 1998, at 11-12.

believes that adequate budgetary controls might have prevented the improper transactions that were made to advance Ron Carey's re-election as the IBT General President.

2. The IBT's Failure to Develop a Comprehensive Policy and Procedures Manual

The IBT's financial management system suffered from another serious weakness – the lack of a comprehensive policy and procedures manual, which would have established uniform guidance for all of IBT managers. According to the IA, the various IBT departments were operating with “informal” procedures, which was problematic:

Given that the IBT lacked a written policy and procedures manual, it was difficult to determine specific IBT policies for items such as routine entitlements and procurement. Some written policies had been established in IBT internal memoranda to supervisory personnel reminding them of the IBT's “informal” policies when abuses or problems would surface. These “informal” policies were usually inadequate and were applied inconsistently. For example, one IBT employee entered into a contract binding the IBT without any legal or management review. This subsequently resulted in a loss to the IBT.²⁹⁶

Grant Thornton, in 1992, also recommended that the IBT develop a comprehensive policy and procedures manual to enhance management control.²⁹⁷ As recently as February 1998, the IBT told the Subcommittee that it still lacked a comprehensive policy and procedures manual. On January 28, 1998, the Subcommittee made a request, to Zuckerman, Spaeder, Goldstein, Taylor & Kolker, outside counsel to the IBT, for “[c]opies of all IBT operating, finance and administrative manuals in effect

²⁹⁶ Independent Administrator Report at 73.

²⁹⁷ Leser Depo. at 11.

during calendar years 1991 through 1997.”²⁹⁸ In a February 10, 1998 letter, IBT counsel informed the Subcommittee that “there is no such manual.”²⁹⁹

The IA also determined that weaknesses in the IBT’s financial controls for travel funds permitted abuses. IBT employees with access to two sources of funds could, and frequently did, receive allowances and benefits from both. Examples of double-dipping included:

- Collecting a \$300 per month automobile allowance from the IBT for the use of their personal automobile for union business when they also were furnished a union-owned or leased car and related expenses;³⁰⁰ and
- Collecting a \$300 per month automobile allowance from the IBT for the use of their personal automobile for union business when they were furnished a similar allowance from a local union organization.³⁰¹

The IA concluded this double-dipping cost the IBT and its local organizations thousands of dollars and “such actions in some cases may be acts of embezzlement.”³⁰²

The Subcommittee found that, as late as February 1997, problems with automobile expenses remained. In a memorandum to all IBT division and department directors, Mr. Sever wrote that “[a] recent review of the IBT car rental expenses has raised great concern. We must reduce expenses in this area drastically, and we must all immediately start doing what we do differently...Many rental car receipts indicate very few miles were driven. And, in some cases, more than one IBT employee incurred rental car expenses for the same events...Again, rental cars should be avoided unless absolutely necessary!!”³⁰³

²⁹⁸ Letter from Congressman Pete Hoekstra to Leslie Berger Kiernan, January 28, 1998. Exhibit 52.

²⁹⁹ Letter from Leslie Berger Kiernan to Joseph E. diGenova, February 10, 1998. Exhibit 53.

³⁰⁰ Independent Administrator Report at 105.

³⁰¹ Id.

³⁰² Id.

³⁰³ Memorandum from Tom Sever to All Division and Department Directors, February 25, 1997 (Emphasis in original). Exhibit 54.

Mr. Sever then sent individual memoranda to over 60 IBT employees requesting that they review their car rental expenses. Sever noted one situation where an IBT employee spent \$9,778 for 1996 car rentals in addition to his \$400 monthly car allowance.³⁰⁴

Inadequate Financial Procedures and the 1996 IBT Election

The IBT's inadequate financial procedures fostered an environment in which illegal expenditures, totaling hundreds of thousands of dollars, were made out of the IBT general fund for the benefit of Ron Carey's reelection campaign. According to the testimony of Joseph Selsavage, IBT Director of Accounting, before the Independent Review Board, Bob Nicklas [a staff member in the IBT Government Affairs Department] requested that Mr. Selsavage process two large expenditures on October 24, 1996, at about one o'clock in the afternoon – twelve days before the November 5, 1996 federal election.³⁰⁵ One expenditure was a \$475,000 contribution to Citizen Action, and the other was a \$100,000 contribution to Project Vote. Both are liberal organizations that conduct get-out-the-vote activities targeted primarily at Democratic-leaning constituencies. Mr. Selsavage believed that it “would be very unlikely” that processing could be completed that day, given the requests had not been approved by the required IBT officers and the amounts of the specific expenditures were “unprecedented.”³⁰⁶

According to his testimony, Mr. Selsavage took the requests to personnel in the Office of the IBT President to obtain the approval, but was told by Kathy Morrone, the

³⁰⁴ Memorandum from Tom Sever to Billy Mendenall, February 25, 1997. Exhibit 55.

³⁰⁵ In The Matter of: Charges Against former International Brotherhood of Teamsters, William W. Hamilton and Ronald Carey, Proceedings Before the Independent Review Board, Volume II, Exhibit 12, Deposition of Joe Selsavage at 38.

³⁰⁶ Id. at 39.

Administrative Assistant to Aaron Belk who was Ron Carey’s Executive Assistant, that Belk “would never approve them.”³⁰⁷ Mr. Selsavage then discussed with Tom Sever whether the expenditures were prudent given the weak financial condition of the IBT, and the fact that DRIVE funds, including a \$500,000 loan from Crestar Bank, were exhausted.³⁰⁸ Mr. Sever agreed that the requests not only needed the approval of the IBT President, but also that they should be presented to the General Executive Board.³⁰⁹ However, according to Mr. Selsavage, Judy Scott, IBT General Counsel, called to tell him that the checks needed to be issued that day. Ms. Scott told Mr. Selsavage that it was in the best interest of the IBT to make the contributions, and opined that GEB approval was not required by the IBT Constitution because the contributions “were recurring transactions.”³¹⁰ Mr. Selsavage testified that Ms. Scott believed the requests were “recurring” because every four years the IBT made political contributions on behalf of candidates for public office.³¹¹

On October 24, 1996, Mr. Selsavage received the requests containing the approval of the IBT’s Office of the General President. When Mr. Selsavage inquired as to how the approvals were obtained, he learned that Kathy Morrone had been ordered to sign the requests by Monie Simpkins, the Executive Secretary to Ron Carey.³¹² According to a November 14, 1997 affidavit signed by Ms. Simpkins, during telephone calls to Mr. Carey, she “told Carey the substance of the memoranda, including, without limitation, the name

³⁰⁷ Id. at 39.

³⁰⁸ Id. at 40-41.

³⁰⁹ Id.

³¹⁰ Id. at 43-44.

³¹¹ Id. In deference to the U.S. Attorney for the Southern District of New York, the Subcommittee did not question Ms. Scott about these transactions, which are the subject of an ongoing criminal investigation.

of the organization for which the contribution had been requested and the amount of the requested contribution. Ron Carey approved each of the contributions.”³¹³ However, when deposed by the Election Officer, Carey did not recall any discussion about his approval of the contribution requests.

Q: Do you recall anything about your conversation with Monie [Simpkins] over this?

Carey: I don’t recall this at all.

Q: Do you recall in this conversation or any others with Monie over political contributions her mentioning Jere Nash to you?

Carey: No. I don’t remember any conversation I’ve had with Monie about these. However, knowing how Monie operates, if she put [the initials] “RC” and “MS,” that means she had to check it through me.³¹⁴

Essentially, the IBT contributed \$575,000 to two organizations based on undocumented telephone discussions that Ron Carey claims not to remember. An effective system of financial controls at the IBT may have prevented these contributions, as well as others that were part of the swap schemes that ultimately invalidated the 1996 IBT election.

3. The IBT’s Need for an Inspector General

The IA report also discussed the need for an independent entity, such as an inspector general (“IG”), to review IBT activities. The IA found that the lack of an IG “has resulted in other unnecessary expenses being passed on to the IBT.”³¹⁵ The IA also determined that there was “no systematic process at IBT to provide for audit coverage in

³¹² Id. at 45.

³¹³ Id., See, also, Affidavit of Monian Simpkins. Exhibit 56.

³¹⁴ Id. (Deposition of Ronald Carey, July 17, 1997, at 58-59).

³¹⁵ Independent Administrator Report at 78-79.

the areas most susceptible to fraud, waste, and abuse.”³¹⁶ The IA believed that an IG should be appointed to “be responsible for supervising the consolidation of the IBT’s audit functions and to initiate an important internal control mechanism to improve the IBT’s financial management.”³¹⁷

An IG could provide an independent and objective assessment of management’s stewardship of IBT resources. Further, an IG could conduct investigations and audits of IBT activities, and keep the GEB informed of any problems. An IG could also provide leadership by coordinating and recommending policies designed to improve IBT operations and prevent and detect fraud, waste, and abuse.

The need for an IG is underscored by the view of IBT leadership that federal supervision of the IBT has gone on long enough. As Mr. Sever testified before the Subcommittee:

I think that we have sufficient supervision at this time. I would hope that we would be given some reasonable time to clean up this organization on our own and would hope some day that the internal review board under the consent decree would quietly go away.³¹⁸

The fact remains, however, that the IBT leadership has not demonstrated that it can lead the IBT responsibly without federal oversight. James P. Hoffa, the newly elected IBT President, has proclaimed his desire to end or limit government oversight of the Teamsters Union. Certainly, the establishment of an IG office within the IBT would be a big step in the right direction.

4. Detroit News Strike – An Example of Weak Financial Controls

³¹⁶ Id. at 129.

³¹⁷ Id.

The Detroit News strike began in July 1995 and involved 2,500 workers in six locals from three international unions, including IBT Locals 372 and 2040, which represented 1,500 strikers.³¹⁹ IBT officials were quick to recognize the problem that the union's poor financial condition would pose in funding the strike. In an effort to assist the strikers, the IBT borrowed large sums of money from other unions and participated in the AFL-CIO Adopt-A-Family program that paid benefits to striking members. Although the IBT attempted to get an accounting of the money sent to Detroit, it encountered great difficulty learning how the Adopt-A-Family funds were spent.

Additional financial assistance for its striking members was a priority for the IBT. On July 28, 1995, the GEB voted "to establish a strike benefit assistance program effective September 1, 1995 to provide strike benefit assistance to members on strike or subject to lockout at the rate of \$55.00 per week."³²⁰ The history of strike benefit payments played an important role in this resolution. As previously noted, IBT delegates voted to raise out-of-work benefits from \$55 weekly to \$200 weekly without approving a funding mechanism to cover the increased expenses.³²¹ By April 1994, the Strike Fund had been depleted and the GEB stopped payment on the \$200 weekly strike benefits.³²²

To fund this new \$55 benefit, the GEB voted to accept \$790,000 in loans from thirteen other unions in August 1995.³²³ These loans were interest-free, collateral-free, and had no repayment terms.³²⁴ On December 28, 1995, the GEB approved the payment

³¹⁸ O&I Hearing, May 19, 1998, at 134.

³¹⁹ Memorandum from Ron Carey and Tom Sever to GEB, August, 8, 1995. Exhibit 57.

³²⁰ Memorandum from Ron Carey and Tom Sever to GEB, July 28, 1995. Exhibit 58.

³²¹ Id.

³²² Id.

³²³ Exhibit 57.

³²⁴ Id.

of \$500,000 to be allocated at Mr. Carey's discretion.³²⁵ In March 1996, the AFL-CIO loaned an additional \$185,000 to the IBT to cover Detroit strike expenses.³²⁶ On April 15, 1996, the GEB allocated an additional \$525,000, to be used for the strike at the discretion of Mr. Carey.³²⁷ In June and July 1996, the GEB approved additional funding of \$500,000.³²⁸

As a supplement to the \$55 weekly benefit, the strikers received an additional \$100 per week through the existing Adopt-A-Family Program administered by the Metropolitan Detroit AFL-CIO Special Projects fund.³²⁹ Beginning on June 7, 1996, the IBT began weekly wire transfers from its General Fund into an AFL-CIO bank account in Detroit.³³⁰ By the end of 1996, the IBT had transferred more than \$3 million to Detroit. Mr. Sever expressed concern about those funds. On April 10, 1997 he wrote to President Carey:

As of this date, I have made three written requests to the Adopt-A-Family program and Jim St. Louis [the IBT employee coordinating the program], asking them to provide us with documentation on how our contributions to the program thus far have been spent. I have not, however, received any response or accounting for these funds, which currently exceed \$3 million.

...I am very concerned about the lack of documentation and, consequently, the lack of accountability for the expenditure of these very large amounts of money. It appears that International Representative Ed Burke has total control and discretion over the disbursement of the funds. It is extremely important, and it is in everyone's interest, that we have written records demonstrating that these funds have been properly spent, should any questions ever arise.³³¹

³²⁵ GEB Minutes, January 22, 1996, at 8. Exhibit 59.

³²⁶ Labor Organization Annual Report, December 31, 1996, at Schedule 8.

³²⁷ GEB Minutes, April 15, 1996, at 29. Exhibit 60.

³²⁸ GEB Minutes, September 30th - October 2nd, 1996, at 21-22. Exhibit 61.

³²⁹ Sever Depo. at 120.

³³⁰ Deposition of Harold E. Burke, November 4, 1998 at 46-53.

³³¹ Memorandum from Tom Sever to Ron Carey, April 10, 1997. Exhibit 62.

The Subcommittee deposed four key IBT officials on this issue – James L. Bosley, Executive Assistant to the General Secretary-Treasurer; Joseph Anthony Selsavage, Director of Accounting; Thomas L. Sever, General Secretary Treasurer; and Harold “Eddie” Burke, Special Assistant to the General President. In addition, Aaron Belk, Ron Carey’s Executive Assistant, testified at a Subcommittee hearing.

Mr. Bosley testified that he shared Mr. Sever’s concern over the lack of accounting documentation. He testified that, sometime after April 10, 1997, Mr. St. Louis provided an accounting for the expenditures, but Mr. Bosley never saw it.³³²

Mr. Selsavage testified that he approved the majority of IBT expenditures for the Detroit newspaper strike as Mr. Sever’s designee, and that, since September 1995, the IBT spent in excess of \$14 million.³³³ He did not know who at the AFL-CIO was responsible for administering the Adopt-A-Family funds, nor did he know the name of the IBT’s contact at the AFL-CIO regarding this program.³³⁴ Mr. Selsavage testified that he and Mr. Sever made numerous requests for an accounting and received only a letter from Mr. St. Louis saying that the funds were disbursed on behalf of members involved in the Detroit newspaper strike.³³⁵

Harold “Eddie” Burke was one of the key figures orchestrating the ground activities of the Detroit strike.³³⁶ John Sweeney, the AFL-CIO president, appointed Mr. Burke to be the strategist to run the strike effort in January 1996.³³⁷ Mr. Burke testified

³³² Deposition of James L. Bosley, September 17, 1998, at 39-41.

³³³ Selsavage Depo. at 96-97.

³³⁴ Id. at 100.

³³⁵ Id. at 103.

³³⁶ Doug Durfree, *Newspaper Strike Tactics Parallel New National AFL-CIO Strategy*, The Detroit News, June 16, 1996, <<http://www.detnews.com/menu/stories/52315.htm>>.

³³⁷ Id.

that several people from the AFL-CIO were involved in the Adopt-A-Family Program, but could not recall their names.³³⁸ He stated that two elected officers from Local 372 and Local 2040 controlled the distribution of money, including Adopt-A-Family funds.³³⁹

With respect to the April 10, 1997 memo from Mr. Sever to Mr. Carey, Mr. Burke said he was aware of previous requests for an accounting of the expenditures, and subsequently provided more documentation to Mr. Sever.³⁴⁰ Mr. Burke also testified that he did not know why the memo stated that he had total control and discretion over the disbursement of the funds.³⁴¹

At the Subcommittee's July 24, 1998 hearing, Aaron Belk also testified about the concern at the IBT over how the Detroit News Strike funds were being spent:

Q: Did you personally try to find out how the money was spent?

Belk: Yes. I had asked for oral presentations to the [GEB] from the people that we had on the ground in Detroit and raised that in the [Detroit strike] subcommittee, as other members did, about getting accounting on the funds that had been sent there.

Q: And did you get an accounting?

Belk: No we did not.

* * * *

Q: So you never got a good accounting of where that money was being spent either?

Belk: No, I've never seen any line-item description of where the funds were spent.³⁴²

³³⁸ Burke Depo. at 48.

³³⁹ Id. at 59-60.

³⁴⁰ Id. at 61-63.

³⁴¹ Id. at 63-64.

³⁴² O&I Hearing, July 24, 1998, at 28-29 (publication forthcoming).

The Subcommittee has not been able to determine whether the millions of dollars expended on behalf of the Detroit strike were spent solely for the benefit of the membership. It is clear, however, that Mr. Sever and others at the IBT were concerned over the lack of controls and the lack of accountability over these large expenditures.

B. Financial Demise of the Teamsters Union

1. Summary

When Ron Carey took over as General President of the Teamsters in February 1992, the net worth of the union exceeded \$150 million, but was on the decline. Just over two years later, an emergency dues assessment went into effect when the IBT's net worth dropped below \$20 million.³⁴³ The assessment brought an approximate \$17 million-per-year revenue boost to the Carey Administration. These funds helped Mr. Carey expand the size of the Organizing Department and increase the political involvement of the union.

As 1994 progressed, however, the IBT was facing a dilemma. Prolific spending caused the union's net worth to continue to plummet despite the emergency assessment. Ron Carey did not want to begin his re-election campaign with an insolvent union. His political opponents certainly would have seized the issue and cited it as an example of Mr. Carey's mismanagement of the union. But at the same time, Mr. Carey did not want to lose the additional revenues brought in by the emergency assessment. Thus, the IBT leadership explored methods to stabilize the union's financial condition, while being

³⁴³ IBT Constitution at Art. X, Sec. 2:

"Whenever the assets of the International Union, except the Washington, D.C. real properties, run below twenty million dollars (\$20,000,000) the General Executive Board

careful not to let the net worth exceed \$25 million, the point at which the assessment would expire.

This section of the report details the decline in the Teamsters' net worth and discusses how the discount rate of the Teamsters Affiliates Pension Plan ("TAPP") was manipulated to achieve Mr. Carey's goals. This section also discusses a self-serving change made to the Retirement and Family Protection Plan ("RFPP"), which added to the union's serious financial difficulties.

2. Annual Declines in the Teamsters' Net Worth

In February 1992, the GEB passed a resolution stating that the IBT "will adopt and implement sound financial policies which will ensure that our members' dues are spent in the most cost-effective and accountable manner possible."³⁴⁴ Five months later, on July 27, 1992, the General Secretary-Treasurer issued a financial report for the quarter ending March 31, 1992. The report warned of necessary "drastic cuts," because the General Fund faced a projected deficit of approximately \$19.5 million by the end of 1993.³⁴⁵ The IBT initiated various cost-cutting measures in an effort to rebuild the treasury, including selling IBT aircraft, reducing vendor fees, and other operational changes.³⁴⁶

These cost cutting measures were largely offset, however, by the GEB's decision to make political activism a major component of union activities. Ultimately, political

shall levy an assessment of one dollar (\$1.00) per member per month on all Local Unions, until such assets reach twenty-five million dollars (\$25,000,000)."

³⁴⁴ Exhibit 6 at 18.

³⁴⁵ Letter from Tom Sever to Ron Carey, July 27, 1992. Exhibit 63.

³⁴⁶ GEB Minutes, July 27-28, 1992, at 15-16. Exhibit 64.

activities played a significant role in draining the IBT's resources, including general treasury funds.

The second quarterly financial report for 1992 specifically addressed concern over payment of strike benefits. The report indicated "out-of-work benefits ballooned by over \$1 million per month in the third quarter, to a monthly average of \$3.5 million. If this trend continues, the [Defense] Fund will be depleted early in 1994."³⁴⁷

The 1992 audited financial statements show the IBT had a net loss for the year of approximately \$43 million.³⁴⁸ The downward financial trend would continue into 1993. As a result, General Secretary-Treasurer Tom Sever cautioned Mr. Carey and the GEB members that:

The financial condition of the International Union continues to be serious and worsen; without significant actions, all funds will be depleted by the end of 1994 or sooner. While we need to insure that value is received for monies spent and to be careful to minimize spending, additional revenues will be needed no matter what other actions we take. Without additional revenues, we will reach a point within one year where it will be necessary to begin to curtail and eliminate programs that are vital to our members.³⁴⁹

Five months later, Mr. Sever issued another quarterly financial report, which again warned that the financial condition of the International Union was serious and that immediate action must be taken to increase revenue.³⁵⁰ Nevertheless, as 1993 drew to a close, the IBT was faced with a loss of approximately \$52 million for the year, and a net

³⁴⁷ Letter from Tom Sever to Ron Carey, November 4, 1992. Exhibit 65. The Subcommittee notes that on June 27, 1991, the Teamsters' Convention raised strike benefits to \$200 from \$55 per week, but did not take any steps in order to offset this new level of benefits. See, Memorandum from Ron Carey to GEB, July 28, 1995. Exhibit 58.

³⁴⁸ International Brotherhood of Teamsters, Audited Financial Report, 1992. Exhibit 66.

³⁴⁹ Letter from Tom Sever to Ron Carey, April 15, 1993. Exhibit 67.

³⁵⁰ Letter from Tom Sever to Ron Carey, September 21, 1993. Exhibit 68.

worth of nearly \$59 million.³⁵¹ Thus, during the first two years of the Carey Administration, the IBT's net worth declined by \$95 million.

Although several significant transactions occurred in 1994, none were sufficient to ameliorate the IBT's financial condition. In the spring of 1994, the membership rejected a 25% dues increase, and the IBT borrowed a total of \$15 million from the AFL-CIO and two other unions.³⁵² In May, the GEB implemented the emergency assessment of \$1 per month from each member, as required by the IBT Constitution. The IBT also revoked the charters of the four U.S. Area Conferences. At its May 1994 meeting, the GEB also curtailed payment of all out-of-work/strike benefits, effective June 1, 1994. That October, the IBT froze the Teamsters Affiliates Pension Plan. Further, the AFL-CIO also forgave \$1.5 million of a \$5 million loan to the IBT.³⁵³ Despite those actions, the IBT lost approximately \$34 million during 1994.³⁵⁴

For 1995, the IBT witnessed some financial improvement, with net income of approximately \$7.4 million,³⁵⁵ partially due to nearly \$17 million in special assessment income, and partially due to suspension of strike benefits through August 1995 [they were reinstated at a reduced rate of \$55 per week in September of 1995].³⁵⁶ In August and September of 1995, the IBT borrowed \$790,000 from 13 other unions to cover Detroit

³⁵¹ International Brotherhood of Teamsters, Audited Financial Report, 1993. Exhibit 69.

³⁵² Labor Organization Annual Report, 1994, at Schedule 8, Item 75, no. 17.

³⁵³ Id. at Schedule 8, Item 75, no. 17.

³⁵⁴ Exhibit 29.

³⁵⁵ Id.

³⁵⁶ Exhibit 57.

strike expenses.³⁵⁷ Despite those measures, by the end of 1995, the IBT's net worth was \$30.6 million.³⁵⁸

The following year was an IBT election year and the union's financial crisis was of great concern at IBT headquarters. To compound matters, federal and state elections also occurred in 1996, and the IBT was heavily committed to supporting pro-labor candidates. The IBT lost approximately \$14.1 million in 1996, which is attributable to those and several other factors.³⁵⁹ For example, organizing expenses nearly doubled during 1996, totaling close to \$11 million.³⁶⁰ Additionally, the IBT Convention cost the rank-and-file nearly \$7.3 million.³⁶¹ Also, during 1996, the IBT sent nearly \$2 million by wire transfer to an AFL-CIO bank account in Detroit, Michigan, which was in addition to the \$4.4 million strike benefit expense listed on the financial statements.

In 1997, the IBT's net worth declined by \$13 million.³⁶² Strike benefits paid totaled slightly over \$12 million, largely due to the UPS strike in August of 1997.³⁶³

Between 1991 and 1997, the IBT's net worth declined by more than \$150 million.³⁶⁴ A review of the financial history of the IBT reveals that the Teamsters, under Ron Carey's leadership, have been unable to control spending.

3. Freezing TAPP

³⁵⁷ Labor Organization Annual Report, 1995, at Schedule 8.

³⁵⁸ International Brotherhood of Teamsters, Audited Financial Report, 1995. Exhibit 70.

³⁵⁹ Exhibit 32.

³⁶⁰ Id.

³⁶¹ Id.

³⁶² Exhibit 33.

³⁶³ Id.

³⁶⁴ Exhibits 33 and 51.

The deteriorating financial picture created problems for the IBT's leadership. They knew that political opponents would make the union's finances an issue during the approaching election campaign. Also, Mr. Carey was concerned about the IBT's ability to meet its commitments to be actively involved in the 1996 national elections "with a union that was in bankruptcy."³⁶⁵ In an apparent effort to resolve the financial crisis, Mr. Carey and the GEB looked to the union's contributions to the Teamsters Affiliates Pension Plan ("TAPP").³⁶⁶ During a July 12, 1994 GEB meeting, Mr. Carey raised the issue of possibly freezing TAPP benefits and reactivating them at a future date.³⁶⁷ Mr. Carey said that he had asked the Segal Company to study the TAPP benefits and develop options for revising the IBT contribution to the plan.³⁶⁸

In its September 23, 1994 report to the GEB, Segal proposed three options for reducing TAPP costs: (1) termination; (2) freezing; or (3) limiting the accrual of future benefits.³⁶⁹ Sherman G. Sass, Senior Consultant, and James R. Laws, Senior Vice President and Actuary, presented the results of the Segal Company review, noting that almost all of the TAPP participants also are covered by one or more other retirement

³⁶⁵ In The Matter of Charges Against Former International Brotherhood of Teamsters, William W. Hamilton and Ronald Carey, Proceedings Before the Independent Review Board, Vol. II, at 40 (Election Officer for the International Brotherhood of Teamsters Interview of Ronald Carey, July 17, 1997).

³⁶⁶ The Teamsters Affiliates Pension Plan ("TAPP") is administered by a Board of Trustees appointed by the IBT General Executive Board, and is subject to the provisions of the Employee Retirement Income Security Act of 1974. TAPP, which the IBT started in 1962, is a defined benefit retirement plan designed to pay benefits on a uniform basis to all employees and officers of local unions. An employee or officer of the participating local unions automatically becomes a participant in TAPP upon the completion of at least 1000 hours of work over a 12-month period. A large majority of TAPP members also participate in one or more other union retirement plans. See, Memorandum from Dick Jasper and John Ward to George Casey [Hereinafter referred to as the "Jasper Memo"], March 26, 1992. Exhibit 71.

³⁶⁷ GEB Minutes, July 11-12, 1995, at 22. Exhibit 72. See, also, The Segal Company, *International Brotherhood of Teamsters Affiliates Pension Plan Review of Actuarial Cost of Current and Alternative Plans*, September 23, 1994, at 1. Exhibit 73.

³⁶⁸ Id. at Appendix A.

³⁶⁹ GEB Minutes, September 27, 1994 at 9-13. Exhibit 74.

plans. The GEB members discussed the Segal report and decided to convene a special GEB meeting in October 1994 to review TAPP's financial situation.³⁷⁰

The net worth of the union and the fate of the emergency assessment income were the motivating factors considered by the decision makers exploring changes to the TAPP.³⁷¹ The Carey Administration was clearly looking ahead to the 1996 re-election campaign. For instance, Bob Hauptman, Special Assistant to the General President for Management and Budget, reported that if TAPP contributions were not frozen, the IBT would have a negative net worth of approximately \$8.0 million "by the time of the 1996 [IBT] Convention" and that "even if TAPP is frozen, and we make all the cuts in spending, and we continue the \$1 assessment, we still won't go over \$25 million [the amount required to end the assessment] in net assets until some time after the next Convention."³⁷²

On January 23, 1995, after careful consideration of the effects on the union's net worth and the special assessment, the GEB voted to freeze TAPP benefits retroactive to December 31, 1994, and gave local unions the option of paying future TAPP contributions. This move was estimated to reduce the IBT's TAPP expenses in 1994 from \$16.1 million to \$1.6 million.³⁷³

4. Manipulating the TAPP Discount Rate

³⁷⁰ Id.

³⁷¹ Talking Points for Bob Hauptman. Exhibit 75. Also, in an interview with Subcommittee staff, Aaron Belk stated that Judith Scott, IBT General Counsel, was a proponent of maintaining the emergency dues assessment.

³⁷² Id.

³⁷³ GEB Minutes, January 23-25, 1995, at 8-9. Exhibit 76.

In 1994, IBT leaders manipulated the discount rate of the Teamsters Affiliates Pension Plan in order to achieve their personal goals. The discount rate is defined as the interest rate used to adjust for the time value of money³⁷⁴ and is one of four rates used by an actuary in computing the liability of a pension fund under generally accepted accounting standards.³⁷⁵ Between 1991 and 1997, the only rate that the IBT changed in computing TAPP liability was the discount rate; the rates for the other three remained unchanged.³⁷⁶

In its 1992 and 1993 calculations of the IBT's liability to TAPP, Segal Company used a discount rate of 7.25%.³⁷⁷ In an October 25, 1994 analysis of TAPP expenses prepared by Segal, their estimate assumed no change in the 7.25% discount rate. According to handwritten notes taken by Steven Leser of Grant Thornton, LLP, during an October 26, 1994 conference call on TAPP, discussion focused on increasing the 1994 discount rate from 7.25% to 8.00% and the concomitant effect on the union's net worth.³⁷⁸ The notes indicate that an increase of the discount rate to 8% would result in a net gain of \$13 million. Ultimately, the 8.00% discount rate was selected.

These numbers reveal how the discount rate was manipulated to achieve the IBT leadership's goals. As a result of the increase to 8%, the IBT's net worth as of December 31, 1994 rose to \$24.5 million.³⁷⁹ This figure was not accidental, for the emergency

³⁷⁴ Financial Accounting Standards Board, *Current Text: Accounting Standards as of June 1, 1997*, Pension Costs, at 34287.

³⁷⁵ The Segal Company, *Pension Cost and Disclosure Information Required Under FASB Statement No. 87*, April 24, 1995, at 7. Exhibit 77. The other three rates are the salary increase rate, the long-term rate on plan assets and the Internal Revenue Service rate.

³⁷⁶ The Segal Company, *Excerpts from FASB 87 Reports, 1991-1997*, at Table 4. Exhibit 78.

³⁷⁷ Id.

³⁷⁸ Leser Handwritten Notes. Exhibit 79. The Subcommittee estimates that each ¼% increase in the discount rate would create about a \$4.6 million decrease in the IBT's liability for TAPP.

³⁷⁹ See, Exhibit 29.

assessment would have ended if the net worth exceeded \$25 million. On the other hand, if the discount rate remained at 7.25%, the IBT would have had a net worth of negative \$8.0 million on June 30, 1996, just prior to the IBT election.³⁸⁰ Mr. Carey's concern of having "a union that was in bankruptcy" would then have become reality for the 1996 national election and his 1996 reelection bid.³⁸¹ The Subcommittee notes that the discount rate was changed back to 7.25% in 1995.

The Subcommittee recognizes that the selection of a discount rate involves professional judgement. This judgement, however, should be exercised on a consistent basis and adequately documented. Generally accepted accounting standards for pensions state that, in selecting a discount rate, the rates published by the Pension Benefit Guaranty Corporation ("PBGC") are a permissible source.³⁸² In 1994, the discount rates published by the PBGC ranged from 5.90% to 7.50%.³⁸³ The Subcommittee notes that the 7.25% rate was within the range of discount rates published by PBGC, but that the 8% rate eventually selected was not.

Further, Segal was not able to provide any documentation supporting the data collection procedures and the rationale used to justify increasing the discount rate from 7.25% to 8.00%.³⁸⁴ Under actuarial standards of practice, an actuary "should clearly document the work done in relation to the financial statements," including evidence used

³⁸⁰ Grant Thornton, *IBT Net Worth & TAPP Liability Projections As of October 28, 1994*. Exhibit 80.

³⁸¹ In The Matter of Charges Against Former Teamsters, William W. Hamilton and Ronald Carey, Proceedings Before the Independent Review Board, Vol. III, at 22 (Sworn Examination of Ronald Carey, October 28, 1997).

³⁸² Financial Accounting Standards Board, *Current Text: Accounting Standards as of June 1, 1997*, at 34211 (.138).

³⁸³ Pension Benefit Guaranty Corporation, *Interest Rates and Quantities Used to Value Immediate and Deferred Annuities in Single-Employer and Multi-Employer Plans for 1994*, December 1994, at I.F.

³⁸⁴ Deposition of Alexander Donald Morgan, IV, August 25, 1998, at 61-64.

to support findings and conclusions.³⁸⁵ Segal’s lack of documentation supporting the selection of the 8.00% discount rate raises serious questions about their compliance with professional standards.

The Subcommittee also has serious reservations as to whether the change in the discount rate was adequately disclosed. While the Grant Thornton 1994 audit report correctly disclosed that the 1994 discount was 8.00%,³⁸⁶ there was no discussion of the approximately \$13 million impact on net income. In addition, the 1995 financial statements submitted by Grant Thornton erroneously reported that the TAPP discount rate was “7.25% for 1995 and 1994.”³⁸⁷

5. Reducing the RFPP Vesting Period

The Subcommittee finds that IBT officers did not act in the best interest of rank-and-file members when they approved more costly pension benefits for IBT headquarters’ officers and employees covered by the Teamsters Retirement and Family Protection Plan (“RFPP”), which occurred while the IBT treasury was deteriorating.³⁸⁸

Bob Hauptman characterized the RFPP as a “substantial benefit, which costs about 17%” of a covered employee’s salary.³⁸⁹ He noted further that, compared to other union retirement plans, the RFPP has an especially generous lump sum option and an early

³⁸⁵ Actuarial Standard of Practice, No. 21, The Actuary’s Responsibility to the Auditor, at Section 5. Exhibit 70.

³⁸⁷ Id. In a June 24, 1998 letter to the Subcommittee, Stephen R. Leser, the Grant Thornton partner responsible for the IBT audit, said the citing of a 7.25% discount rate for 1994 in the 1995 audit report resulted from a “clerical error.”

³⁸⁸ The RFPP, which the IBT started in 1950, is a defined benefit retirement plan, covering approximately 550 current IBT employees. The RFPP is subject to ERISA and is administered by a committee comprised of the IBT General President, General Secretary-Treasurer and another IBT member. The IBT pays the full costs of the RFPP. The Segal Company, *International Brotherhood of Teamsters Retirement and Family Protection Plan Actuarial Valuation and Review*, March 17, 1998, at 4. Exhibit 81. See, also, IRS Form 5500, 1996 Annual Return/Report of Employee Benefit Plan.

retirement option, which produce a relatively high-income replacement ratio for the retired employee.³⁹⁰ The majority of RFPP participants elect to receive a lump sum payment at the time of their retirement. Since 1991, the IBT liability for RFPP benefits totaled about \$15 million. In 1996, RFPP payments totaled \$4.4 million.³⁹¹ The RFPP had approximately \$55.3 million available to pay benefits as of December 31, 1996.³⁹² The IBT balance sheet contained a liability to the RFPP of \$13.8 million on December 31, 1997.³⁹³

In a February 6, 1995 “READ & SHRED” memorandum to President Carey,³⁹⁴ Mr. Hauptman proposed a reduction of the RFPP vesting period from five to three years, writing that:

I think there are things we can do to make the plan fairer that cost money, but would fit in with an overall cost-reduction plan...3 year vesting (this would help staff who are appointed for less than a full five years as well as many Local 2 members who do not stay employed here for 5 years and currently get NO benefit under the family plan).³⁹⁵

In March 1995, seeing little progress being made on his proposal, Mr. Hauptman told Mr. Carey that action on the RFPP would not be taken “without [a] strong suggestion from you.”³⁹⁶ Mr. Hauptman went on to state that the three-year vesting period would

³⁸⁹ Memorandum to Ron Carey from Bob Hauptman, January 21, 1995. Exhibit 82.

³⁹⁰ Id.

³⁹¹ As of December 31, 1996, there were a total of 33 participants receiving monthly benefits for their lifetime or a specified period of time. The totaled benefits paid during 1996 to these individuals amounted to \$782,865.

³⁹² Id.

³⁹³ Exhibit 33.

³⁹⁴ Memorandum to Ron Carey from Bob Hauptman, February 6, 1995. Exhibit 83. Mr. Hauptman wrote “I am calling this memorandum ‘Read & Shred’ since I am going to put things on paper that would be better off communicated in person and may be misread by others, but your schedule may not allow for a face to face discussion. Please send it back to me with your comments, or destroy it.”

³⁹⁵ Id.

³⁹⁶ Memorandum to Ron Carey from Bob Hauptman, March 8, 1995. Exhibit 84.

benefit many headquarters employees who often do not stay 5 years, “as well as new staff appointed by you.”³⁹⁷ This statement suggests that the reduced vesting period may have been intended as a reward for Mr. Carey’s supporters, ensuring that most employees who were hired by the Carey administration would vest in the plan before the 1996 election and, would, therefore, be entitled to benefits if Mr. Carey lost.

In June 1995, the GEB decided that certain changes needed to be made to the plan because the RFPP “impose[d] unreasonable costs on the Teamster membership in light of the current financial conditions.”³⁹⁸ Under a resolution adopted by the GEB, which was retroactive to January 1, 1995,³⁹⁹ employees became vested if their three years of service included at least one hour of IBT service on or after January 1, 1995.

Naturally, the change in the vesting period increased the costs of the RFPP because the decreased vesting period increased the number of IBT employees entitled to benefits. This point was made very clear by A. Donald Morgan, a Vice President and Actuary of the Segal Company, when he testified before the Subcommittee:

Q: The change in the vesting period from 5 years to 3 years, would that not increase costs?

Morgan: That would increase cost.

Q: Okay. Who was affected by the change in the vesting period from 5 years to 3 years?

Morgan: Basically anybody who left between 3 and 5 – between 3 and 5 years of service.

Q: Do you know where the funds for that plan came from?

³⁹⁷

Id.

³⁹⁸

Resolution on the RFPP, GEB Minutes, June 27, 1995, at 35. Exhibit 85.

³⁹⁹

Memorandum from Family Plan Administrative Committee to the GEB, June 27, 1995. Exhibit

86.

Morgan: I am not sure. It would come from the IBT.⁴⁰⁰

Mr. Morgan's last comment takes on added significance since, just one day before approving the reduced vesting period, Mr. Sever informed the GEB that the IBT had "major financial problems."⁴⁰¹ Notably, the vesting period change increased RFPP costs to the IBT by at least \$300,000 a year.⁴⁰²

Following the RFPP changes, 551 IBT members⁴⁰³ were active RFPP participants; a 19 percent increase over 1995.⁴⁰⁴ Of the 551 active participants, 323 (58%) had 4 years or less of IBT work covered by the RFPP,⁴⁰⁵ and would not have qualified for RFPP benefits if the vesting period had remained at five years.

For example, Judith A. Scott served as Executive Assistant to the General President and then as IBT General Counsel from May 1992 to February 1997.⁴⁰⁶ By the end of her tenure, she received an annual salary of \$120,000.⁴⁰⁷ With the three-year vesting period, Ms. Scott, according to her own testimony, became entitled to RFPP benefits.⁴⁰⁸ If the vesting period had remained at five years, Ms. Scott would have been two months short of the vesting requirement and, therefore, would have been ineligible for the RFPP benefits.

⁴⁰⁰ Morgan Depo. at 82.

⁴⁰¹ Letter from Tom Sever to Ron Carey, June 26, 1995. Exhibit 87.

⁴⁰² Exhibit 81. While other changes were adopted to perhaps lower overall costs, the IBT cost reductions would have been greater if the vesting period remained at five years. Other changes included lowering the maximum annual salary for computing benefits from \$150,000 to \$100,000, a change that pertained to about five IBT officers and employees, and freezing the right to transfer service from another IBT pension plan to RFPP.

⁴⁰³ Id. at 4.

⁴⁰⁴ Id. at 3.

⁴⁰⁵ Id. at 6.

⁴⁰⁶ Scott Depo. at 7.

⁴⁰⁷ Labor Organization Annual Report, 1996, at Schedule 10.

⁴⁰⁸ Scott Depo., at 68-69.

Between 1995 and 1997, RFPP annual costs rose from \$2.5 million⁴⁰⁹ to \$3.1 million,⁴¹⁰ an increase of 24%. As of December 31, 1997, the IBT net worth had dropped to \$3.4 million.⁴¹¹ The Subcommittee questions whether IBT officers and senior staff acted in the best interest of the rank-and-file members in giving headquarters staff a pension windfall.

⁴⁰⁹ Audited Income Statements for the International Brotherhood of Teamsters. Exhibit 88.

⁴¹⁰ Audited Balance Sheets for the International Brotherhood of Teamsters. Exhibit 89.

⁴¹¹ Exhibit 33.

CHAPTER VI:
FINANCIAL REPORTS TO THE DEPARTMENT OF LABOR

A. Summary

Federal law requires labor unions to file annual financial disclosure reports – which include details such as assets, liabilities, revenue, and salary and expense payments to union officers and employees – with the Department of Labor (“DOL”). These Labor Organization Annual Reports, known as LM Forms, are intended to allow rank-and-file union members, the Department of Labor and the interested public to monitor union financial activities. According to the U.S. Department of Labor, the primary purpose of the LM-2 reports “is to enable union members to have the information necessary for them to participate in their unions and to prevent and/or correct abuses.”⁴¹² To this end, DOL keeps the LM Forms on file for public disclosure and periodically audits these reports. Unfortunately, the LM-2 Form, which the Department requires of the nation’s largest private-sector labor organizations, does not require full and fair disclosure of union affairs in several key areas.

The International Brotherhood of Teamsters have exploited the LM-2’s regulatory shortcomings to avoid disclosing the true amount of payments to officers, their actual travel expenses, and millions of dollars in other expenditures. Union members and the public would be well served if Congress, as well as the Department of Labor, would revisit the current laws on financial reporting to ensure that unions adhere to full disclosure standards.

B. Findings

The Subcommittee has developed substantial information regarding the IBT's financial reporting practices. The Subcommittee has reviewed the IBT's LM-2 forms, conducted several interviews and depositions, and held a public hearing on June 17, 1998. In addition, the Subcommittee reviewed hundreds of documents related to the IBT's LM-2 forms. These efforts have led to the following conclusions:

- The IBT's LM-2 forms do not fully disclose the costs of travel by its officers.
- IBT officials concealed the true level of the salaries paid to International officers and headquarters staff.
- The IBT has taken advantage of deficiencies in the LM-2 to avoid full disclosure of its financial activities and priorities.

1. Misleading Reporting of Travel Expenses

The IBT's LM-2 forms fail to accurately report the true costs of travel by union officers. In fact, the IBT's LM-2 forms often include only one-quarter, or even one-tenth, of an employee's actual travel expenses. The Labor Management Reporting and Disclosure Act ("LMRDA") requires unions to report annually the salary, allowances, and other direct or indirect disbursements (including reimbursed expenses) to each officer and employee who received more than \$10,000 from the union in a single year.⁴¹³ DOL reporting guidelines permit unions to report some disbursements for officer and employee travel and related expenses, itemized by employee, in one section of the report and to report other travel expenses in another section of the report, without itemizing the

⁴¹² Letter from John Kotch and Alan D. Lebowitz to Chairman Hoekstra, June 10, 1998. Exhibit 90.

expenses by employee. These non-itemized expenses include those expenditures charged on union credit cards. The IBT's aggregate travel expenses reported in this latter section actually exceeded travel expenses that were itemized by individual officers and employees from 1994-1997:

	Travel Expenses that were Itemized by Employee ⁴¹⁴	Travel Expenses that were not Itemized by Employee ⁴¹⁵	Totals
1994	\$3,005,509	\$3,858,449	\$6,863,958
1995	\$2,442,247	\$3,886,840	\$6,329,087
1996	\$3,134,438	\$4,440,409	\$7,574,847
1997	\$3,195,725	\$4,791,395	\$7,987,120
Totals	\$11,777,919 (41%)	\$16,977,093 (59%)	\$28,755,012 (100%)

The Subcommittee's investigation shows that the amount of money actually spent on travel by an IBT officer or employee can far exceed the amount reported on the LM-2. For example, the IBT's 1995 LM-2 shows that Ron Carey's travel and related expenses (meals and lodging, and transportation) totaled about \$3,200.⁴¹⁶ The results of an internal IBT analysis, however, show that Mr. Carey's travel costs actually totaled over \$28,000,⁴¹⁷ about nine times the amount reported on the LM-2. Likewise, while the 1996 LM-2 showed that Ron Carey's travel and related costs totaled about \$2,700,⁴¹⁸ his travel costs actually totaled over \$43,000⁴¹⁹ – or about sixteen times the amount that a union member could identify by reviewing the LM-2. The forms similarly understate Mr.

⁴¹³ 29 U.S.C. 431 (b)(3).

⁴¹⁴ Subcommittee Analysis of Allowances, Transportation, Meals and Lodging, and Other Business Expenses for IBT Officers and Employees as reported on IBT LM-2 reports in Schedules 9 and 10 for noted years. Exhibit 91.

⁴¹⁵ Subcommittee Analysis of Yearly totals represent the sum of Travel—Airfare to common Carriers or Credit Agencies, Travel Hotel Room and Tax, And Travel—Other Expenses reported on IBT LM-2 reports in Schedule 13 for the noted years. Exhibit 92.

⁴¹⁶ Labor Organization Annual Report, 1995, at Schedule 9.

⁴¹⁷ Exhibit 92.

Sever's actual expenses. During 1995, the LM-2 reported that Mr. Sever's travel costs were \$2,336. However, actual expenditures for his travel totaled \$12,295. The 1996 LM-2 shows that Mr. Sever was reimbursed \$2,441 for travel-related costs, whereas his total cost was \$17,192.

The scope of this underreporting is not limited to the IBT's two senior officers. According to Grant Thornton, the IBT's auditors, "[a]pproximately 200 employees have credit cards which they can use to charge hotel expenses, airline tickets, and other travel expenses."⁴²⁰ These expenses are not itemized by employee on the LM-2. During the Subcommittee's hearing on June 16, 1998 on the IBT's financial and pension reporting, Congressman Norwood discussed this matter with Stephen Leser, a partner at Grant Thornton:

Mr. Norwood. So if you put these travel expenses onto the Visa card, IBT officials are able to basically – I hate the word “hide,” but maybe that will do – to hide their actual travel activities from their members who they are responsible to; is that correct?

Mr. Leser. I won't use the word “hide,” but they are not reflected on that report.

Mr. Norwood. We won't use the word “hide.” We will just say it's impossible for the everyday Teamster to know, if they are interested, what happens to all of this money that is used to travel around the country; is that correct?

Mr. Leser. They can't identify it with specific individuals. I think that is correct.⁴²¹

⁴¹⁸ Labor Organization Annual Report, 1996, at Schedule 9.

⁴¹⁹ Exhibit 92.

⁴²⁰ Grant Thornton, *IBT LM-2 Travel Expenses*, December 31, 1993. Exhibit 93.

⁴²¹ O&I Hearing, June 16, 1998, at 81 (publication forthcoming).

The IBT's International Trustees, who have the responsibility for auditing the union's books, concurred with this assessment in a 1995 letter to Ron Carey and other GEB members:

The most misleading instance [of financial data on the LM-2] involves the amounts listed on Schedules 9 and 10 attached to the International Union's 1993 LM-2 report which fails to include all meals and lodging and transportation, and other expenses incurred by the officers and employees listed on those schedules. In fact, these schedules fail to disclose the apartment and travel costs incurred as a result of the International Union's practice of providing Washington apartments and frequent trips home for certain officers and staff. These categories also fail to include most air travel expenses and hotel expenses...Most of these payments are in fact billed directly to the International and are lumped into ...the LM-2 only as 'Office and Administrative Expenses.' In these respects, the LM-2 schedules significantly underreport the expenses incurred by the Union on behalf of certain officers and staff members. Amended LM-2 reports should be filed to reflect the true costs incurred by each of the involved individuals.⁴²²

DOL's LM-2 reporting rules permit less than full disclosure of these expenses, and the IBT has taken full advantage of this loophole. The instructions state that unions are to report direct and indirect disbursements to each officer and employee, along with their title and salaries, on Schedules 9 and 10. Direct disbursements are described as payment "to the officer or employer in the form of cash, property, goods, services, or other things of value."⁴²³ Indirect disbursements are defined as payment "to another party for cash, property, goods, services or other things of value received by or on behalf of the officer....Such payments include those made through a credit arrangement under which

⁴²² Letter from Ben Leal, Robert DeRusha and Robert Simpson to Ron Carey, January 16, 1995. Exhibit 94.

⁴²³ U.S. Department of Labor, *Instructions for Form LM-2*, at 9-10 [Hereinafter referred to as "LM-2 Instructions"].

charges are made to the account of your organization and are paid by your organization.”⁴²⁴

While this description of indirect payments appears to include all travel expenses, the instructions also direct unions not to report on Schedules 9 and 10 travel disbursements for temporary lodging (room rent only) or transportation by public carrier if (1) payment is made directly to the provider or through a credit arrangement, and (2) these disbursements are reported in another location on the LM-2 – namely Schedule 13.⁴²⁵ Schedule 13 lists aggregate totals for office and administrative expenses, including items such as equipment rental, insurance, office supplies, postage, and certain travel expenses, without disclosing who incurred the travel costs.⁴²⁶

While the purpose of the LM-2 is to inform union members about the financial activities of their union, the DOL allows unions to report millions of dollars of travel expenditures in a manner that obscures who took the trips and how much each trip cost. In explaining the distinctions made in the LM-2 instructions, the DOL notes: “it would be inappropriate to lump together disbursements for organizational purposes with disbursements for the benefit of an individual officer.”⁴²⁷ This justification, however, assumes that it might be appropriate for a labor organization to make expenditures for the personal benefit of one of its officers.

The Subcommittee concludes that DOL’s instructions work at cross-purposes with the rationale for requiring unions to report financial information on the LM-2. While the IBT may be in compliance with DOL requirements, the disclosures are misleading, as

⁴²⁴ Id.
⁴²⁵ Id. at 10.
⁴²⁶ Id. at 11-12.

union members and the public simply cannot determine who spent what amounts for travel.

2. Underreporting Salaries of Officers and Employees

The IBT has customarily paid the employee portion of Social Security taxes, often referred to as FICA, and Medicare taxes on behalf of its Washington, DC headquarters staff.⁴²⁸ FICA taxes are typically withheld from the paychecks of most other employees in the U.S., including rank-and-file Teamsters.⁴²⁹ This benefit for officers and employees of the International Brotherhood of Teamsters costs union members approximately \$1.5 million annually. In 1996, for instance, the IBT paid Social Security and Medicare taxes totaling \$1.73 million on behalf of approximately 590 employees, ranging from an organizer, who was paid \$17,135, up to the General Secretary-Treasurer, who received \$200,000 per year.⁴³⁰ From 1992 through 1997, the IBT paid a total of \$9.7 million of the employee's share of the taxes on behalf of those working at Teamsters headquarters.⁴³¹

Judy Scott, former General Counsel for the IBT, explained that part of the overall employee compensation package was for the IBT to pay the employee's share of FICA and Medicare taxes, but that the Carey administration had considered eliminating this practice.⁴³² Because the IBT was unwilling to cut overall employee compensation, a change would have required salary increases for all headquarters employees to maintain

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Id.

⁴²⁸ Grant Thornton, *Overview of Payroll Department*. Exhibit 95.

⁴²⁹ The employee portion of the tax is 7.65% up to \$61,200 of wages, and 1.45% of wages exceeding this amount.

⁴³⁰ Labor Organization Annual Report, 1996, at Schedules 9, 10, and 11.

⁴³¹ Labor Organization Annual Reports, 1992-1997, at Schedule 11.

the same compensation level.⁴³³ Of course, such across-the-board salary increases would have been reflected on the IBT's Form LM-2. Ms. Scott, aware that Ron Carey's political opponents would scrutinize the IBT's LM-2, did not feel it was wise to report salary increases:

[I]f you release that kind of information on a LM-2 Form into the field, it would serve as a basis [for] attacking Ron [Carey] that somehow he was giving major wage increases to people at a time that the finances were in difficulty. That wouldn't be the case, but it could easily be misrepresented.⁴³⁴

Short of increasing the salaries of all headquarters employees and eliminating the tax perquisite, the IBT still could have stated accurately the salaries paid to its officials by fully disclosing this benefit on its LM-2s. The LM-2 instructions allow unions to report this benefit as disbursements to individual officers or simply to state the cost of the benefit in the aggregate.⁴³⁵ The IBT misleadingly disclosed its tax payments as a lump sum benefit rather than as payments to each employee or officer. As a result, most rank-and-file members are not aware that the IBT is using their dues money to pay the Social Security and Medicare taxes of Headquarters employees. This practice was not accidental, as Judy Scott stated in her deposition, "it was a practice that had been revisited over and over again by the IBT and by Carey."⁴³⁶ Nor was this evasion minor issue: as Ms. Scott pointed out, revealing the true salaries of IBT officials and staff could have created the appearance of "major wage increases."⁴³⁷

⁴³² Scott Depo. at 123. Ms. Scott stated that the practice of the IBT paying employees' FICA taxes was a longstanding practice at the IBT, pre-dating the Carey administration.

⁴³³ Id. at 125.

⁴³⁴ Id.

⁴³⁵ LM-2 Instructions.

⁴³⁶ Scott Depo. at 123.

⁴³⁷ Id. at 125.

3. Other Incomplete Disclosure of Financial Activities

Additional issues cloud the utility that the IBT's LM-2s hold for rank-and-file members. First, many unions have created separate funds for specific purposes. For example, the IBT created an "Organizing Fund" to fund campaigns for new members and has long maintained a "Strike Fund" to pay benefits to members who are on strike, locked out, or laid off. The LM-2 Form, which requires unions to report all of their assets in the aggregate, does not call for disclosure of the amounts set aside for major union objectives, such as organizing or paying strike benefits. Such initiatives can be very significant. For example, At the end of 1992, the IBT had approximately \$67 million in its General Fund, \$46 million in its Defense Fund, and \$25 million in its Special Organizing Fund.⁴³⁸ Yet, the union's LM-2 reflects only that the IBT had assets of \$141.8 million at that time.

Second, the IBT has incorrectly listed its investments and its revenue from the sale of assets over the last few years. The IBT purchases and sells large dollar amounts of investments each year and reinvests most of the proceeds. These sales and reinvestments are reported as asset sales, overstating and mischaracterizing the substance of the transactions. Although the LM-2 contains a line to list reinvestments, this line is blank on the IBT's LM-2 forms.⁴³⁹ These inaccurate filings are misleading and directly contravene the DOL's instructions, which require unions to subtract the amount that was promptly reinvested.⁴⁴⁰ When the Subcommittee inquired about this issue, the Department of Labor informed the Subcommittee that it was conducting a "desk audit" of the IBT's 1996 and

⁴³⁸ International Brotherhood of Teamsters, Consolidated Balance Sheet, December 31, 1992. Exhibit 96.

⁴³⁹ Labor Organization Annual Report, 1992-1997, at Schedule 7, Line 7. See, also, Exhibit 90.

1997 LM-2 reports since it believes that the union may be misstating its investment sales and purchases.⁴⁴¹

A deterrence to union members seeking financial information is the LMRDA requirement that they file suit in federal court and prove “just cause” to obtain more information than provided in the LM-2 reports (if the union refuses to provide the data). As noted elsewhere in this report, even the IBT’s International Trustees – who hold the constitutional responsibility for auditing the union’s books – were unable to obtain information necessary to verify travel and other expenditures.

Finally, where the LM-2 Form mandates financial disclosures of expenditures and investments, it also requires the use of two distinct and mutually exclusive sets of accounting rules. Portions of the LM-2 explicitly require unions to use “cash basis” accounting, while other areas use terms that relate to “accrual” accounting. For example, Statement A, which lists a union’s Assets and Liabilities, employs accrual accounting, while Statement B, which lists Receipts and Disbursements, uses cash basis accounting. The DOL reporting not only creates twice the work for union accountants, it also creates a complicated disclosure report that does not provide a user with meaningful and consistent financial information. The Subcommittee notes that other financial forms required by the Pension and Welfare Benefits Agency and the IRS employ accrual accounting.

C. Conclusions

⁴⁴⁰ LM-2 Instructions.

⁴⁴¹ Exhibit 90.

It is time to re-evaluate whether the current DOL union reporting requirements fully accomplish the fundamental goal of the LMRDA: to enable union members to have the information necessary for them to discover and attempt to remedy abuses by union officials. At present, the LM Forms fail to meet this goal. Potential changes that merit consideration include:

- Requiring the full disclosure of all cash and non-cash benefits for union officials and employees, including payment of employees' FICA taxes.
- Requiring the disclosure of all travel-related expenses by officer and employee, regardless of whether the costs were paid for directly or indirectly by the union.
- Requiring the disclosure of limited, special-purpose funds and/or requiring expenditures to be listed on LM-2 forms in functional categories, such as organizing, collective bargaining, strike benefits, political activities, etc.
- Changing the "just cause" standard of the LMRDA regarding the rank-and-file's right to examine documents in order to secure the right of union members to safeguard their dues money.
- Utilizing the accrual accounting method within the LM forms. The same system might also be appropriate for other financial disclosure forms unions must file, such as those mandated by ERISA and the Internal Revenue Code, in order to ease the paperwork burden on labor unions.

CHAPTER VII:
FAILURES BY GRANT THORNTON

A. Background

Since 1992, the firm Grant Thornton, LLP, (“GT”) has served as the independent auditor for the IBT and most of its related entities, including its political action committee (DRIVE), the Teamsters Affiliates Pension Plan, and the Retirement and Family Protection Plan. GT’s duties included determining whether the IBT’s political and charitable contributions were properly documented and whether there were any problems with the IBT’s internal controls. In addition, a GT tax expert was responsible for reviewing the work papers for tax-related issues and resolving any tax-related questions. As a part of those duties, GT was required to make certain inquiries if it determined that an illegal act may have occurred.

Between 1992 and 1997, GT issued unqualified opinions on the IBT’s financial statements that the firm’s work was performed in accordance with professional standards. By certifying the IBT financial statements, Grant Thornton “assume[d] a public responsibility transcending any employment relationship with the client.”⁴⁴² As a result, Grant Thornton had a duty to “maintain total independence from the client at all times,”⁴⁴³ and “complete fidelity to the public trust.”⁴⁴⁴ Notwithstanding Grant Thornton’s audit opinions, events transpired in 1996 that raise questions about the firm’s adherence to those obligations.

⁴⁴² U.S. v. Arthur Young & Co., et al., 465 U.S. 805, 817 (1984).

⁴⁴³ Id.

⁴⁴⁴ Id.

B. Findings

While conducting the 1996 IBT audit, GT examined political and charitable contributions and their supporting documentation to ensure that these expenditures had been properly authorized. Field auditors carried out the initial review, and their resulting work papers were then reviewed by more experienced auditors.⁴⁴⁵ Susan Vowell, a tax specialist, also reviewed work papers and addressed any questions that related to the tax-exempt status of the union.⁴⁴⁶

Discovery of the Hamilton Memo and GT's Initial Response

While examining the IBT's political and charitable contributions, Heather Leach, a GT auditor, uncovered a memorandum written by Bill Hamilton, then-IBT Governmental Affairs Director, requesting that IBT President Ron Carey authorize a general treasury payment to a third party in order to benefit a specific political candidate.⁴⁴⁷ Ms. Vowell later testified that this candidate was President Clinton.⁴⁴⁸ Concerned that the contribution may have been improper, Ms. Leach showed the memorandum to Ms. Vowell, who assured her that there was nothing about the transaction that could put the tax-exempt status of the IBT at risk.⁴⁴⁹ Ms. Vowell, however, never conducted any kind of inquiry to determine whether the contribution was improper.⁴⁵⁰

⁴⁴⁵ Leser Depo. at 17-19.

⁴⁴⁶ Deposition of Susan Vowell, October 20, 1998, at 7.

⁴⁴⁷ Id. at 10. The Subcommittee has not identified the memorandum(s) in question.

⁴⁴⁸ Id. at 12.

⁴⁴⁹ Id. at 11.

⁴⁵⁰ Id. at 22.

Ms. Vowell conveyed her concerns about the memorandum to Rebecca Lundgren, her superior who was in charge of the IBT audit.⁴⁵¹ As a result of her conversation with Ms. Vowell, Ms. Lundgren prepared an “Advisory Comments and Reportable Conditions” form, the purpose of which is to list significant problems uncovered during an audit and recommend changes.⁴⁵² On this form, Ms. Lundgren described the memorandum uncovered by Ms. Leach and included Ms. Vowell’s recommendation that the IBT avoid putting in writing the political goal behind an expenditure request in order to prevent jeopardizing the tax-exempt status of the union.⁴⁵³ Despite Ms. Lundgren’s testimony to the contrary, Ms. Vowell denied ever making such a recommendation.⁴⁵⁴

In April 1997, Ms. Vowell received a facsimile copy of an article from the GT national office entitled “Senate Panel Subpoenas Exempt Groups as Part of Campaign ’96 Probe.”⁴⁵⁵ The article noted that the Senate Governmental Affairs Committee would begin issuing subpoenas regarding tax-exempt groups involved in the 1996 campaign, including the Teamsters.⁴⁵⁶ Ms. Vowell then sent the article to Ms. Lundgren with a note at the top stating, “Rebecca, this is why I thought the memo regarding specific political party/candidate support should be removed from Teamsters files. Susan.”⁴⁵⁷ During her deposition, Ms. Vowell denied that her intent was to suggest that the Teamsters remove documents from their files to avoid discovery by the Governmental Affairs Committee

⁴⁵¹ Deposition of Rebecca Lundgren, October 29, 1998, at 5, 12-16.

⁴⁵² Grant Thornton, *Advisory Comments and Reportable Conditions*, December 31, 1996. Exhibit 97. See, also, AICPA Professional Standards, at Section 325.

⁴⁵³ Lundgren Depo. at 15-16, 28. Ms. Lundgren was not an expert regarding 501(c)(3) or 501(c)(5) corporations, so she relied on Ms. Vowell for tax recommendations regarding those tax exempt organizations.

⁴⁵⁴ Vowell Depo. at 23.

⁴⁵⁵ *Senate Panel Subpoenas Exempt Groups as Part of Campaign ’96 Probe*, EOTR Weekly, April 21, 1997. Exhibit 98.

⁴⁵⁶ Id.

investigation.⁴⁵⁸ Ms. Vowell, however, failed to provide an otherwise credible explanation for her note to Ms. Lundgren.

The Subcommittee notes that Ms. Vowell wrote her note after articles appeared in the press reporting that the Federal Election Commission, the Election Officer, and the U.S. Attorney for the Southern District of New York were also investigating the Carey campaign. To the extent that GT auditors suggested that IBT files be purged of potentially incriminating documents, they may have violated ethical standards applicable to auditors.

The Draft Advisory Comments Letter

Prior to completion of the audit, Ms. Lundgren drafted an “Advisory Comments” letter to the IBT, which recommended that IBT memoranda requesting or documenting financial support for specific candidates be removed from IBT files.⁴⁵⁹ Under normal circumstances the letter would have been reviewed by Kevin Madden, the audit manager.⁴⁶⁰ In this instance the letter went directly to Stephen Leser, the partner overseeing the audit.⁴⁶¹ Although Leser made some minor changes in wording throughout the letter, the only recommendation he completely removed was the one regarding the Hamilton memo.⁴⁶² Mr. Leser testified that he never saw the Hamilton memorandum in question, and did not contact either Ms. Lundgren or Ms. Leach to discuss the issue

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Id.

⁴⁵⁸ Vowell Depo. at 18-19.

⁴⁵⁹ Lundgren Depo. at 23.

⁴⁶⁰ Deposition of Kevin Madden, August 27, 1998, at 57-58.

⁴⁶¹ Id.

⁴⁶² Leser Depo. at 77. The decision to remove that particular paragraph from the letter came after GT became aware that the Senate Governmental Affairs Committee would be issuing a subpoena to the IBT.

before deleting Ms. Lundgren’s recommendation.⁴⁶³ Mr. Leser also testified that he never contacted Ms. Vowell to discuss the issue.⁴⁶⁴ He explained: “I try to keep...the tax comments out of the audit letters, simply because I’m an audit guy and I understand audits.”⁴⁶⁵

According to past and present GT employees who testified before the Subcommittee, the recommendation to remove the Hamilton memo from the IBT’s files was never actually conveyed to the client. Nonetheless, the Subcommittee has been unable to identify the memo(s) in question.

Failure to Investigate

Auditors, like attorneys, doctors, and other professionals, are governed by standards.⁴⁶⁶ Pursuant to these standards, GT auditors are required to have knowledge of matters that relate to the client’s business, including government regulations.⁴⁶⁷ In 1996, Ms. Lundgren was not familiar with rules governing tax-exempt 501(c)(5) entities such as the IBT.⁴⁶⁸ In addition, the partner overseeing the audit, Mr. Leser, is not a tax expert.⁴⁶⁹ For that reason, Ms. Vowell was used as an expert regarding tax-exemption issues.⁴⁷⁰

Ms. Lundgren noted on her Advisory Comments memo that too many political contributions from the general treasury could indicate to the IRS that the IBT was not

⁴⁶³ Id. at 80. Kevin Madden, the audit manager for the IBT audits, testified that had he seen the letter he would have contacted the author to gain a better understanding of the recommendation.

⁴⁶⁴ Id. at 88.

⁴⁶⁵ Id. at 86.

⁴⁶⁶ AICPA Professional Standards Sec. 110.01.

⁴⁶⁷ AICPA Professional Standards Sec. 311.07.

⁴⁶⁸ Lundgren Depo. at 15-16, 28. 26 USC 501(c) is the statute that governs the tax exempt status of various corporations and labor organizations.

⁴⁶⁹ Leser Depo. at 86.

operating as a labor organization and thus put their tax-exempt status at risk.⁴⁷¹ In addition, the contributions may have fallen outside the union's tax exemption and, therefore, been subject to taxes.⁴⁷² Despite the memorandum from Bill Hamilton indicating that contributions supporting "specific political" parties and candidates were being made from the general treasury, Ms. Vowell failed to make any inquiry to determine whether the IBT's tax exempt status could be affected in part or in whole. In addition, Mr. Leser failed even to discuss the issue with GT's tax expert to determine whether there was a threat to the IBT's tax-exempt status or whether there was an additional tax liability that would have to be included on the IBT's financial reports.⁴⁷³ Had anyone from GT made an inquiry into the Hamilton memorandum, they might have uncovered the improper contributions made from the union's general treasury discussed elsewhere in this report. GT also failed to make any inquiry to determine whether those contributions were consistent with Federal Election Commission regulations.

Auditors are required to take certain affirmative steps should evidence of possible illegal activity arise. Under Generally Accepted Auditing Standards:

When the auditor becomes aware of information concerning a **possible** illegal act, the auditor should obtain an understanding of the nature of the act, the circumstances in which it occurred, and sufficient other information to evaluate the effect on the financial statements. In doing so, the auditor should inquire of management at a level above those involved, if possible. If management does not provide satisfactory information that there has been no illegal act, the auditor should –

⁴⁷⁰ Vowell Depo. at 7.

⁴⁷¹ Exhibit 97.

⁴⁷² Expenditures from the general treasury of a labor organization exempt from tax under 501(c)(5) to support specific federal candidates (as indicated in the Hamilton memorandum) are subject to tax by the IRS. Alaska Public Service Employees Local 71 v. Commissioner of Internal Revenue, 62 T.C.M. (CCH) 1664 (U.S. Tax Ct. 1991).

⁴⁷³ Leser Depo. at 87.

- a. Consult with the client's legal counsel or other specialists about the application of relevant laws and regulations to the circumstances and the possible effects on the financial statements. Arrangements for such consultation with client's legal counsel should be made by the client.
- b. Apply additional procedures, if necessary, to obtain further understanding of the nature of the acts.

* * *

The additional audit procedures considered necessary, if any, might include procedures such as the following:

- a. Examine supporting documents, such as invoices, canceled checks, and agreements and compare with accounting records.
- b. Confirm significant information concerning the matter with the other party to the transaction or with intermediaries, such as banks or lawyers.
- c. Determine whether the transaction has been properly authorized.
- d. Consider whether other similar transactions or events may have occurred, and apply procedures to identify them.⁴⁷⁴

After learning about the Senate investigation into illegal and improper campaign activities, GT should have contacted IBT management at a level above Mr. Hamilton to specifically determine whether or not the contribution referenced in the Hamilton memorandum was improper and could impact the IBT's tax exempt status and filings with the FEC. According to testimony by Mr. Leser, Ms. Vowell, Ms. Leach and Ms. Lundgren, GT failed to make any such contact.⁴⁷⁵ Finally, GT failed to conduct any further review to determine whether the contribution was made with an intent to aid a specific candidate. Ms. Vowell, who made the determination that the memorandum in question did not raise a tax issue because the third party was a tax exempt organization, testified that she did so without making any additional inquiries:

⁴⁷⁴ AICPA Professional Standards Sec. 317.10-11. (emphasis added.)

⁴⁷⁵ Leser Depo. at 84; Vowell Depo. at 27; Lundgren Depo. at 18.

Question: After Ms. Leach raised the issue, did you make any inquiry to determine why the IBT was making that particular contribution?

Ms. Vowell: No.⁴⁷⁶

C. Conclusions

After discovering the Hamilton memorandum and learning of the Senate investigation involving campaign contributions by the Teamsters, GT failed to follow applicable standards that require specific responses when an auditor becomes aware of possible illegal actions by the client. In addition to failing to investigate possible illegal activity, GT failed to recommend to its client that it should refrain from making contributions that could jeopardize its tax-exempt status. Instead, GT considered recommending that the IBT simply refrain from documenting its plans to make political contributions from general treasury funds for the benefit of specific candidates. Subsequently, GT removed the recommendation from a draft letter to the IBT, after learning that the Teamsters might receive a Congressional subpoena regarding its political contributions. The Subcommittee further finds that as a result of GT's failure to make inquiries into the Hamilton memorandum, it failed to uncover major deficiencies in the IBT's internal financial controls.

⁴⁷⁶ Vowell Depo. at 22.

CHAPTER VIII:
POLITICAL ACTION

A. Campaign Contributions and Contribution Swaps

1. Summary

In 1992, the International Brotherhood of Teamsters launched a massive, sustained effort to assist Democratic candidates. Since 1992, the Teamsters have made millions of dollars in direct contributions to Democratic Party candidates. Most of those donations came from the IBT's political action committee (the Democrat, Republican, Independent Voter Education Committee, or "DRIVE"). What is less well known is that the Teamsters leadership used DRIVE funds to make millions of dollars in "soft-money" contributions to state Democratic parties, and that the IBT also used general treasury funds to finance the union's political agenda.

Evidence uncovered by the Subcommittee shows that, between 1991 and 1996, the IBT may have spent \$18 million in members' dues (apart from DRIVE) on political action through donations to get-out-the-vote groups, advertising and publicity, and salary and benefits paid to DRIVE staff members who worked full-time on various political campaigns, all designed to support (almost exclusively Democratic) political candidates. Furthermore, the Subcommittee notes that the Teamsters revamped the union's political action efforts in 1992 with the help of key Democratic consultants and President Clinton's top political aide. In addition, since 1992, the Teamsters worked closely with the Democratic National Committee, Citizen Action, the AFL-CIO, Project '95, Labor '96, Project VOTE, and others on election-related activity.

Over the same time period, the IBT's net worth dropped by approximately \$137.3 million and the union was forced to borrow millions more. The spending splurge directly contributed to the IBT's near insolvency in early 1997, according to the IBT's Secretary-Treasurer.⁴⁷⁷ As a result, the Subcommittee questions whether the IBT's political action efforts were in the best interest of rank-and-file members, and whether IBT officials lived up to the standards of fiduciary responsibility outlined in the Labor-Management Reporting and Disclosure Act.

The fact that the Teamsters union played a major role in national politics – financially and otherwise – in the 1990s was not solely due to starry-eyed idealism; the IBT expected results from the politicians it supported. In the first General Executive Board meeting of the Carey administration, the Board pledged that the IBT would “offer its political and financial resources and work vigorously on behalf of officials who support the goals of this union and organized labor.”⁴⁷⁸ This pledge translated into millions of dollars in direct and indirect political support, almost exclusively to Democratic candidates and parties.

The Teamsters' leadership strongly backed the Clinton Administration. As one internal IBT document obtained by the Subcommittee notes: “We need Bill Clinton and Bill Clinton needs us. Every day we get help in small ways from Bill Clinton – he makes a phone call, he uses the veto threat.”⁴⁷⁹ On the other hand, when politicians didn't deliver results, they no longer received the IBT's support at election time. For example, when Democratic Congressmen from Tennessee voted for a measure the IBT opposed, the

⁴⁷⁷ Exhibit 5.

⁴⁷⁸ Exhibit 6.

⁴⁷⁹ Political Action Speech to Local Union Leadership (emphasis in original). Exhibit 99.

IBT's Government Affairs Director wrote: "In light of this, I see no reason for DRIVE and the Teamsters to give any more money to incumbent Tennessee members of Congress during this election cycle."⁴⁸⁰

For the IBT, political contributions, soft money pledges, lobbying activities in Congress and executive agencies, get-out-the vote campaigns, and coordinated independent expenditures were intertwined and interchangeable tools to get results from the Clinton Administration and other supportive politicians. Furthermore, it appears that these political action efforts and campaign coordination facilitated the contribution swaps involving the IBT, Citizen Action, Project Vote, the AFL-CIO, the DNC, possibly the Clinton-Gore re-election campaign, and the re-election campaign of IBT leaders. In these schemes, IBT officials and consultants essentially funneled Teamsters' general treasury money – largely comprised of dues paid by rank-and-file members – through other organizations to the Carey campaign. Due to the contribution swaps, the results of the 1996 Teamsters' election was invalidated; Ron Carey was barred from participating in the re-run election and dismissed from the Teamsters for life; six people have either been indicted or pled guilty to federal criminal charges; and nearly \$17.9 million in taxpayer funds were spent on a corrupted election.

2. Findings

a. The Democratic Party's Close and Lucrative Relationship with the IBT

⁴⁸⁰ Memorandum to Tennessee Local Principal Officers from Bill Hamilton, October 4, 1996 (emphasis in original). Exhibit 100. See, also, Exhibit 7 ("As you know, I have stopped all contributions to the Democratic Senate Campaign Committee because of the disappointing performance of Senate Democratic leaders, especially Democratic Leader To Daschle, on the FedEx vote two weeks ago just

Even before the Subcommittee formally launched its investigation, it was widely reported that the IBT had donated millions of dollars to Democratic candidates through the union's political action committee, DRIVE. According to several publications, since 1992, DRIVE donated approximately \$7.5 million to the Democratic Party and its candidates.⁴⁸¹ The non-partisan Center for Responsive Politics reported that DRIVE was the largest union political action committee donor – and the second-largest PAC in the country – during the 1996 election cycle.⁴⁸² According to one candidate for Teamsters President, the union had become “an ATM machine for the Democrats.”⁴⁸³

Federal Election Commission (“FEC”) records show that during the 1992 campaign cycle (1991-1992), IBT leadership donated funds totaling \$2,395,120 to Democratic candidates.⁴⁸⁴ During the 1994 campaign cycle (1993-1994), DRIVE donated \$2,708,300 to Democratic candidates and party committees.⁴⁸⁵ Two years later, DRIVE donated nearly \$3 million to Democratic candidates and party committees.⁴⁸⁶ The pattern continues to this day. From January 1, 1997 through June 30, 1998, the IBT donated DRIVE funds of more than \$1.5 million to Democratic causes.⁴⁸⁷

before they adjourned. I was asked as recently as yesterday by Sen. Kerrey, chairman of the DSCC, to reconsider. He asked for \$500,000; I said no.”)

⁴⁸¹ See, generally, *The Teamsters and the Democrats*, Washington Times, May 25, 1997, at B-2; National Legal and Policy Center, *Organized Labor Accountability Project: 1998 Study of Top Union PACs*, <<http://www.nlpc.org>>.

⁴⁸² Jennifer Shecter, *Political Union: The Marriage of Labor & Spending*, Center for Responsive Politics, <<http://www.crp.org>>.

⁴⁸³ Stephen Franklin, *Hoffa: A Son's Mission*, Chicago Tribune, November 22, 1998.

⁴⁸⁴ Federal Election Commission, *Contributions 1991-92, Democratic Republican Independent Voter Education Committee*, <<http://www.tray.com>>.

⁴⁸⁵ Federal Election Commission, *Contributions 1993-94, Democratic Republican Independent Voter Education Committee*, <<http://www.tray.com>>.

⁴⁸⁶ Federal Election Commission, *Contributions 1995-96, Democratic Republican Independent Voter Education Committee*, <<http://www.tray.com>>.

⁴⁸⁷ Federal Election Commission, *Contributions 1997-98, Democratic Republican Independent Voter Education Committee*, <<http://www.tray.com>>.

But the DRIVE donations comprised only a part of the IBT's political commitments. Indeed, the Subcommittee found that DRIVE contributions were supplemented by approximately \$18 million in general treasury funds – comprised of rank-and-file members' dues – that also went toward political action from 1992 to 1997.

A New Political Agenda Emerges, 1992

On February 3, 1992, the newly-elected General Executive Board approved a resolution stating that the Teamsters “should play a crucial role in this year’s presidential election by pushing labor’s goals to the forefront of the American political debate.”⁴⁸⁸ It went on to say that the IBT would “offer its political and financial resources and work vigorously on behalf of officials who support the goals of this union and organized labor.”⁴⁸⁹ Finally, the GEB stated its intention “to use influence, power and resources to ensure the election of a President, Senate and Congress which are responsive and accountable to the working men and women of this country.”⁴⁹⁰

On April 28, 1992, the GEB adopted a process for the union to make a presidential endorsement. The process entailed notifying all local officers, publishing information on the process and the presidential candidates in *Teamster Magazine*, and surveying IBT members.⁴⁹¹ Only after taking all those steps would the GEB make a formal endorsement.⁴⁹²

⁴⁸⁸ Exhibit 6.

⁴⁸⁹ Id.

⁴⁹⁰ Id.

⁴⁹¹ GEB Minutes, April 28, 1992, at 38-39. Exhibit 101.

⁴⁹² Id. at 39.

Over the following months, IBT leadership set its newly minted endorsement process in motion. The GEB commissioned a nationwide survey of members by the Garin-Hart Strategic Research Group, a polling firm used extensively by organized labor and the Democratic Party.⁴⁹³ The survey found that 75% of Teamsters said the country was headed in the wrong direction after four years of President Bush; by a 53-35% margin, members said they would approve of a union endorsement of Bill Clinton.⁴⁹⁴ Following the poll, the GEB unanimously endorsed Bill Clinton for President,⁴⁹⁵ and voted to “work hard on the elections between now and November,”⁴⁹⁶ and to “organize actions, produce educational materials on the major issues, and work to encourage all Teamster families to vote and provide volunteers to endorse candidates.”⁴⁹⁷

Unlike the financial and operating resolutions discussed in previous chapters, IBT leaders implemented these political resolutions. In a self-congratulatory report to the General Executive Board following the 1992 election, then-President Ron Carey noted that the Teamsters had:

- “delivered all available DRIVE funds to the Clinton/Gore coordinated campaign;”⁴⁹⁸
- distributed more than 3 million campaign items, such as “leaflets, bumper stickers, rally signs, banners, balloons, and other materials which were used throughout the U.S...during the fall elections;”⁴⁹⁹

⁴⁹³ Deposition of Geoffrey Garin conducted by the United States Senate Governmental Affairs Committee, Special Investigation, September 5, 1997, at 38.

⁴⁹⁴ *Teamsters Endorse Bill Clinton for President*, Teamsters Magazine, September 1992. The Subcommittee notes that the poll was conducted after *Teamster Magazine* published numerous articles critical of President Bush and other Republican candidates.

⁴⁹⁵ GEB Minutes, July 27, 1992, at 8-11. Exhibit 102. The Subcommittee notes that the endorsement was not made public until August 1992, when Ron Carey announced it at the Democratic National Convention. Before making the announcement, Carey had a private meeting with then-Governor Clinton. See, *Teamsters Endorse Bill Clinton*, Teamster Magazine, September 1992.

⁴⁹⁶ Exhibit 102.

⁴⁹⁷ *Id.*

⁴⁹⁸ *Report of the General President to the General Executive Board*, November 5-6, 1992. Exhibit 103.

- devoted major sections of three editions of *Teamster Magazine* to highlight “support for Clinton by members who supported Bush or did not vote in 1988;”⁵⁰⁰
- “donated \$20,000 to the Illinois Hispanic Democratic Council for voter registration and dedicated 100 phones to Project VOTE;”⁵⁰¹
- “contributed \$37,500 to a massive GOTV phone banking operation run by Project VOTE bringing over 600,000 newly registered voters to the polls;”⁵⁰²
- “staffed national GOTV phone bank [run] out of IBT headquarters;”⁵⁰³
- worked with retirees;⁵⁰⁴
- handled security for President Clinton and Vice President Gore;⁵⁰⁵
- organized bus caravans for the candidates;⁵⁰⁶
- and established a “War Room” at IBT headquarters.⁵⁰⁷

The Clinton Administration appreciated these efforts. Shortly after the 1992 election, David Wilhelm, the President’s campaign manager, appeared before the GEB and “thanked the IBT for playing a major role in the Clinton campaign. Wilhelm noted that the IBT’s contribution to the campaign was different than many other organizations, because of its attention to grassroots work, including the Teamsters voter registration drive.”⁵⁰⁸

Continuing Assistance to Democrats, 1993-1995

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Id.
Id.
Id.
Id.
Id.
Id.
Id.
Id.
Id.

GEB Minutes, January 18, 1993, at 4. Exhibit 104.

The Teamsters' hierarchy continued to wield the union's influence, power, and resources to influence the political process after the 1992 elections. The Subcommittee notes, for example, that during 1993, a non-election year, *Teamster Magazine* contained 11 articles promoting Democrats and criticizing Republicans.⁵⁰⁹ The following year, the magazine featured five articles critical of Republican positions and supportive of Democratic politicians and/or candidates.⁵¹⁰

The IBT's attention to political fieldwork also endured. President Carey reported at a GEB meeting in September 1994 that the Government Affairs Department asked DRIVE staffers for their assistance "in gathering support for both incumbent and new candidates for the U.S. Senate and the House of Representatives."⁵¹¹ As part of that effort, the IBT leadership decided "that the [Teamster] retirees should be utilized in the political election process."⁵¹² In addition, Geoff Garin, of Garin-Hart Strategic Research Group, briefed the GEB about polls he had conducted "on the upcoming Congressional and state elections."⁵¹³

During 1995, the IBT loaned a Democratic congressman and two staff members a desk and a telephone at IBT headquarters.⁵¹⁴ In addition, the union's magazine published

⁵⁰⁹ The articles were as follows: "Members Give Congress a Message," "Carey Encourages Clinton to Put People First," and a thank-you letter from Carey to DRIVE contributors for supporting the Clinton/Gore ticket and other Democratic candidates, *Teamster Magazine*, March 1993; "The Entire Federal Deficit Increase Came from Tax Cuts for the Rich," "The Fight for Change in America: Now's the Time," "Cleaning up America," *Teamster Magazine*, April/May 1993; "Teamsters Speak Out in Washington," "Let Your Voice Be Heard," "Special Interests Make Us SICK," *Teamster Magazine*, June 1993; "Will NAFTA give you the SHAFTA?," *Teamster Magazine*, July/August 1993; "Your Job or Your Family: Should Workers Have to Choose?" *Teamster Magazine*, October/November 1993.

⁵¹⁰ See, *Teamster Magazine*, January/February, March, April/May, and June/July, 1994.

⁵¹¹ *Report of the General President to the General Executive Board*, April 25, 1994, at 3. Exhibit 105.

⁵¹² GEB Minutes, September 26-28, 1994, at 5. Exhibit 106.

⁵¹³ *Id.*

⁵¹⁴ Memorandum from Bill Hamilton to Security, June 27, 1995. Exhibit 107.

28 articles on politics, all of which supported issues advanced by Democratic politicians, attacked positions or legislative proposals supported by Republican elected officials, or directly attacked Republican elected officials.⁵¹⁵

Also in 1995, the Teamsters launched a significant effort “to help elect a United States Senator in Oregon”⁵¹⁶ in the special election to replace Senator Bob Packwood. As part of that effort, the Teamsters assigned a DRIVE representative to the campaign and ran statewide radio advertisements that, in the words of IBT Governmental Affairs Director Bill Hamilton, “harshly attacked Republican senate candidate Gordon Smith.”⁵¹⁷ In fact, the Teamsters took credit for Mr. Wyden’s victory, noting that the union “made more than 17,000 phone calls to Teamsters registered to vote, mailed out 120,000 pieces of literature and turned out what we feel certain was unprecedented participation by our members.”⁵¹⁸

IBT Efforts for Democrats in 1996

The IBT’s political efforts in 1995 proved to be merely a trial run for the 1996 presidential contest. In order to understand how the Teamsters devised and implemented its 1996 political action program, one must appreciate the relationship between the Teamsters and the Clinton Administration. A draft speech apparently written by Bill Hamilton noted that Bill Clinton is:

⁵¹⁵ See, Teamster Magazine, January/February, March, April/May, June, July/August, September, October/November, and December, 1995.

⁵¹⁶ Memorandum from Bill Hamilton to Fred Potter, November 13, 1995. Exhibit 108. The Subcommittee notes that Mr. Thompson was “based in New Jersey and work[ed] in New Jersey and New York throughout the 1996 campaign.” See, Memorandum from Bill Hamilton to Ron Carey, December 27, 1995. Exhibit 109.

⁵¹⁷ Memorandum from Bill Hamilton to Ron Carey, January 10, 1996. Exhibit 110.

not a progressive Democrat, and he never will be. Nor is he a natural defender of unions...Neither of these were secrets. We knew it in 1991 and 1992. He has real first-term scars – NAFTA, health care fiasco. Bill Clinton isn't Roosevelt or Truman or Kennedy or Johnson...But let's understand each other. We need Bill Clinton and Bill Clinton needs us.⁵¹⁹

Defeating Republican candidates for Congress was just as important to the IBT as electing President Clinton. As Bill Hamilton noted, “We stopped the Contract on American [sic] in its tracks. But if we lose the White House and fail to take back the Congress, that all changes.”⁵²⁰

On April 9, 1996, Mr. Hamilton told the GEB that the IBT “is moving toward a massive, nationwide effort to register every adult Teamster family member to vote in the 1996 fall elections.”⁵²¹ This registration drive was one component of labor’s multi-faceted 1996 campaign. Mr. Hamilton reported that the Government Affairs Department would “produce and help stage public presentations around ‘report cards’ issued to mostly first-term members of Congress for their unsatisfactory performance in Congress last year.”⁵²² The first such presentations “took place in Connecticut and Nevada around Reps. Gary Franks and John Ensign, both Republicans.”⁵²³

Around the same time, Mr. Hamilton assigned an IBT staff member, Alfred Garcia, “to work in Texas on politics for the duration of this campaign year.”⁵²⁴ Mr. Garcia’s “primary assignment” was to “coordinate labor’s effort to defeat Rep. Greg Laughlin (R-

⁵¹⁸ Memorandum from Bill Hamilton to Ron Carey, February 27, 1996. Exhibit 111.

⁵¹⁹ Exhibit 99.

⁵²⁰ Id.

⁵²¹ Government Affairs Department Report to General Executive Board, April 9, 1996. Exhibit 112.

⁵²² Id.

⁵²³ Id.

⁵²⁴ Memorandum from Bill Hamilton to Aaron Belk, April 3, 1996. Exhibit 113.

TX).”⁵²⁵ A DRIVE representative also was assigned to “head up a coordinated labor campaign to replace Rep. Randy Tate (R-WA).”⁵²⁶

Delegates to the IBT Convention in July 1996 approved a resolution to “conduct a major voter education campaign to make sure all Teamster families have information about how President Clinton, Bob Dole, and candidates for Congress have performed on key issues.”⁵²⁷ In addition, the delegates voted that the union would “use its resources and encourage its members to replace the current Congress with one more responsive to the needs of our members.”⁵²⁸ In August 1996, the Teamsters began “a frenzied effort to mobilize our members to participate in activities taking back the Congress and in the presidential campaign.”⁵²⁹ As part of those efforts, the Teamsters planned to develop and distribute pamphlets, bumper stickers, hats, T-shirts, posters, pins, leaflets and mailings, and produce radio and broadcast advertisements.⁵³⁰ Mr. Hamilton also assigned a DRIVE organizer “to work virtually fulltime on the Torricelli race in New Jersey.”⁵³¹

In September, the IBT was working to “take back the Senate” for the Democrats.⁵³² Mr. Hamilton noted that the Teamsters were “heavily involved in trying to pick up two congressional seats in the New York area, and to hold onto the Senate seat being vacated by Bill Bradley in New Jersey.”⁵³³ Also in 1996, the IBT proposed to “move an additional \$100,000 in general treasury funds”⁵³⁴ into get-out-the-vote efforts being run

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Id.

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Exhibit 112.

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Making Politicians Listen to Working Families, Teamster Magazine, September 1996.

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Id.

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Memorandum from Bill Hamilton to Aaron Belk, August 29, 1996. Exhibit 114.

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Id.

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Id.

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Memorandum from Bill Hamilton to Ron Carey, September 27, 1996. Exhibit 115.

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Memorandum from Bill Hamilton to Aaron Belk, October 23, 1996. Exhibit 116.

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Memorandum from Bill Hamilton to Ron Carey, October 23, 1996. Exhibit 117.

by Project VOTE.⁵³⁵ While those funds were to be used for “non-partisan GOTV phone calls to black households in selected congressional districts,”⁵³⁶ the IBT acknowledged that “in each instance they will benefit the Clinton campaign but, also, and more specifically, congressional and senate races that we are tracking.”⁵³⁷

A month later, the Teamsters, the American Federation of State, County and Municipal Employees (“AFSCME”), and United Mine Workers of America funded “a \$200,000 radio and TV independent expenditure” on behalf of Charlotte Pritt, the Democratic candidate for governor in West Virginia.⁵³⁸ On October 17, the Teamsters aired “a radio spot attacking [Republican Congressman] Ganske for taking tons of special interest PAC money in his race for re-election there.”⁵³⁹

b. IBT Coordination with Democrats, Other Unions, and Independent Organizations

Evidence uncovered by the Subcommittee shows that, from 1992 onward, the Teamsters worked closely with the Democratic Party. It also demonstrates that the IBT devoted substantial financial support to the AFL-CIO, liberal advocacy organizations, and get-out-the-vote groups. Many of the same organizations later were involved in the contribution swaps that corrupted the 1996 IBT elections. Much of the evidence developed by the Subcommittee indicates coordination between the IBT, the Democratic

⁵³⁵ Id. The Subcommittee notes that the U.S. Attorney for the Southern District of New York and the Election Officer for the International Brotherhood of Teamsters determined that this transaction was part of the contribution swaps.

⁵³⁶ Id.

⁵³⁷ Id.

⁵³⁸ Memorandum from Bill Hamilton to Ron Carey, October 4, 1996. Exhibit 118. The full extent of the IBT’s coordinated campaign efforts are detailed later in this chapter.

⁵³⁹ Memorandum from Bill Hamilton to Stan Brand and Betty Grdina, October 17, 1996. Exhibit 119.

National Committee and third-party groups; however, the information at hand is insufficient to conclude whether such coordination violated the Federal Election Campaign Act of 1974 and/or regulations promulgated by the Federal Election Commission. As a result, the Subcommittee recommends that investigation of those issues continue.

Clinton Aides Revamp IBT Political Action

One of the first actions undertaken by the Teamsters' General Executive Board was to overhaul the union's political agenda.⁵⁴⁰ The GEB adopted the report of a legislative/political working group, which recommended that the Teamsters "encourage more involvement [by members], more cooperation [with outside entities], more training and more modern approaches to voter registration, voter persuasion and get-out-the-vote."⁵⁴¹ The working group also recommended creating PACs within each local, sponsoring regional political training seminars, establishing a get-out-the-vote program to contact members "and urge them to support pro-labor candidates" during the 1992 elections.⁵⁴²

A key participant in the working group was Doug Sosnik, then-chief of staff for Senator Christopher Dodd, former General Chairman of the Democratic National Committee.⁵⁴³ Mr. Sosnik now is Counselor to the President and previously served as Assistant to the President and Director of Political Affairs. Mr. Sosnik also participated in

⁵⁴⁰ Exhibit 6.

⁵⁴¹ *Legislative/Political Working Group Report to the General President*, April 20, 1992. Exhibit 120.

⁵⁴² *Id.* Hal Malchow, a partner in the November Group, served as chairman of the working group. The November Group has since disbanded as a result of Martin Davis' participation in the Teamsters contribution swaps.

⁵⁴³ *Id.*

meetings about issues of concern to the Teamsters and attended by Mr. Carey and other IBT officials.⁵⁴⁴

The close relationship with the Clinton Administration was also evidenced early on when Ron Carey hired David Mitchell as his acting executive assistant.⁵⁴⁵ Mr. Mitchell was active for the Clinton campaign in 1992.⁵⁴⁶

IBT Forms Coalitions for Clinton

Following the IBT's endorsement of Bill Clinton, "the Teamsters launched a tremendous drive in support of Bill Clinton's campaign for President."⁵⁴⁷ The drive included coordinating the union's activities with the labor movement and "environmental, fair trade and consumer groups."⁵⁴⁸ As part of this drive, IBT officials promised to "concentrate our resources and target our activities in those states needed to win the election and [where] we will work closely with the Coalition that supports Clinton and make sure the Teamsters make the maximum impact."⁵⁴⁹

After the 1992 elections, the Teamsters' senior officials assessed the union's political action activities and made recommendations for the future. President Carey's formal report to the GEB offered this assessment of the union's political action work:

While our main focus was registering Teamsters and getting them active and voting, we also wanted to reach out and work closely with the rest of the labor movement and other organizations supporting Clinton. We did this very well with environmental, fair trade and

⁵⁴⁴ Scott Depo. at 118-125.

⁵⁴⁵ Id. at 89.

⁵⁴⁶ Id.

⁵⁴⁷ Exhibit 103.

⁵⁴⁸ Id. at 2.

⁵⁴⁹ Id.

consumer groups, and unions...Our Joint Councils throughout the country worked closely with the AFL-CIO.

In addition, as the campaign changed, and some states clearly became “safer” and others at risk [for the Clinton campaign], we moved financial and other resources around, so we could make the best strategic use of what the Teamsters brought to the campaign.⁵⁵⁰

President Carey recommended that the Teamsters “continue to build bridges within the labor movement and with other organizations that share our goals.”⁵⁵¹ The GEB subsequently passed a resolution stating that the Teamsters “must continue to build the coalition”⁵⁵² that helped elect President Clinton. The resolution noted that during the 1992 elections:

Labor, environmental, religious, consumer, civil rights, women’s and community groups worked together on both the national and local level...[W]e must now work with those allies to elect better public officials...In addition to building coalitions at the national and international level, the IBT should assist local unions in strengthening such coalitions at the local level.”⁵⁵³

The resolution also stated that the IBT would work with the AFL-CIO “in coalition with a wide array of organizations to organize rallies, demonstrations, phone banks canvassing, voter registration, and get-out-the-vote drives.”⁵⁵⁴

Teamsters Join “Project 95”

During early 1995, the Teamsters, the American Federation of State, County and Municipal Employees, the Service Employees International Union, Citizen Action, and the

⁵⁵⁰ Id. at 9-10.

⁵⁵¹ Id. at 11.

⁵⁵² GEB Minutes, Nov. 5, 1992, at 2-3. Exhibit 121.

⁵⁵³ Id.

National Council of Senior Citizens created “The ’95 Project” (also known as “Project ’95”),⁵⁵⁵ “to develop a local progressive coalition (or strengthen the existing one) which speaks out effectively against the devastating consequences of the 104th Congress’s legislative agenda and holds House members accountable for their support of this agenda.”⁵⁵⁶ The IBT promoted this enterprise in a *Teamsters Magazine* article entitled “Joining Forces: Teamsters Build Clout Through Coalitions with Other Community Groups.”⁵⁵⁷

Project ’95 may have had close ties to the White House. Individuals affiliated with Project ’95 briefed senior White House officials about the plan, including the fact that the goal behind the project was “to take back the Congress.”⁵⁵⁸ The Subcommittee notes that White House communications with Project VOTE began at least a year earlier,⁵⁵⁹ and that Mr. Carey has stated that the IBT “worked in coordination with” Project VOTE, Citizen Action and other advocacy groups on “many...different campaigns.”⁵⁶⁰

Teamsters Join Labor ’96

In March 1996, the AFL-CIO approved a \$35-million political action effort known as “Labor ’96” that was partially funded by a \$0.15-per-member, per-month special

⁵⁵⁴ *Making Politicians Listen to Working Families*, Teamster Magazine, September 1996.

⁵⁵⁵ Sponsoring Members of The ’95 Project, June 27, 1995. Exhibit 122.

⁵⁵⁶ “Job Description for ’95 Project Field Coordinators.” Exhibit 123.

⁵⁵⁷ Teamster Magazine, September 1995.

⁵⁵⁸ Senate Governmental Affairs Committee, Deposition of Harold Ickes, June 27, 1997, at 92.

⁵⁵⁹ Memorandum from Zach Polett to Warwick Sabin, July 6, 1995. Exhibit 124.

⁵⁶⁰ In the Matter of: Charges Against Former International Brotherhood of Teamsters, William W. Hamilton and Ronald Carey, Transcript of Proceedings before the Independent Review Board, Vol. II, January 21, 1998, at 622.

assessment upon affiliate unions.⁵⁶¹ Simultaneously, the AFL-CIO endorsed President Clinton for re-election.⁵⁶² During the Labor '96 campaign, IBT officials served “on an AFL-CIO Committee overseeing planning and implementation of the federation’s \$35 million special campaign to take back the Congress.”⁵⁶³

Predictably, Labor '96 had close ties to the White House. In fact, Deputy Chief of Staff Harold Ickes was briefed numerous times by officials of Labor '96.⁵⁶⁴ Furthermore, IBT officials attended a May 1996 AFL-CIO meeting “to discuss creating a labor coordinated campaign, separate from the Democratic Party campaign (though cooperative).”⁵⁶⁵ The Teamsters also were “in discussion with the party, the AFL-CIO and the Clinton-Gore campaign about [making further] coordinated campaign contributions.”⁵⁶⁶ According to Richard Morris, a Clinton-Gore consultant, at one of those meetings, Mr. Ickes urged Clinton-Gore campaign consultants “to coordinate [advertising] with a [labor-run media] campaign,”⁵⁶⁷ and AFL-CIO leaders “suggested...that there be coordination of the [issue-oriented] advertising” being run by the DNC and Clinton-Gore.⁵⁶⁸

Less than two months before Election Day, Steven Rosenthal, the AFL-CIO political director and former Associate Deputy Secretary at the U.S. Department of Labor under President Clinton, appeared at a GEB meeting to give a presentation entitled “Labor

⁵⁶¹ “AFL-CIO Special Convention Endorses President Clinton for Re-Election, Votes Funds for Massive National Education and Action Program,” AFL-CIO Press Release, March 25, 1996.

⁵⁶² Id.

⁵⁶³ Exhibit 110.

⁵⁶⁴ S. Rep. No. 105-167, Vol. 3, 105th Cong., 2nd Sess. 4001-4004 (1998).

⁵⁶⁵ Memorandum from Bill Hamilton to Ron Carey, May 22, 1996. Exhibit 125.

⁵⁶⁶ Memorandum from Bill Hamilton to Anthony Rumore, August 23, 1996. Exhibit 126.

⁵⁶⁷ S. Rep. No 105-167, Vol. 3, 105th Cong., 2nd Sess., at 4002.

⁵⁶⁸ Id.

‘96 Program: Building to Win, Building to Last.’⁵⁶⁹ During the meeting, Mr. Rosenthal said the idea behind Labor ‘96 was “winning in ‘96, it’s about turning around the House and Senate; it’s about helping to re-elect the President and Vice President.”⁵⁷⁰ He also discussed states targeted by the Clinton-Gore campaign,⁵⁷¹ the 29 Republican-represented congressional districts targeted by the AFL-CIO,⁵⁷² efforts to convince union members to vote Democrat,⁵⁷³ and even internal White House polling data.⁵⁷⁴ Mr. Rosenthal also noted that the AFL-CIO had run “issues advocacy” advertisements that had “pounded these guys [targeted Republican congressmen] consistently over the past few months on issue after issue after issue, and we’ll continue to do so right up to the election.”⁵⁷⁵

Teamsters Work with Citizen Action

Six months before the formation of “Project ‘95,” just shortly after the Republicans captured control of Congress, Citizen Action drafted a plan entitled “Campaign ‘96 to Reclaim the House of Representatives.”⁵⁷⁶ The plan instructed participants to: “Build coalitions...of our traditional allies; agree on a target list of vulnerable House Republicans; and pool our resources to be as effective as possible in each district.”⁵⁷⁷

⁵⁶⁹ GEB Minutes, September 30, 1996, at 8. Exhibit 127.

⁵⁷⁰ Rosenthal remarks before International Brotherhood of Teamsters General Executive Board, September 30, 1996, transcribed from audiotape of the meeting.

⁵⁷¹ Id.

⁵⁷² Id.

⁵⁷³ Id.

⁵⁷⁴ Id.

⁵⁷⁵ Id.

⁵⁷⁶ “Campaign ‘96 to Reclaim the House of Representatives,” Citizen Action, January 9, 1995. Exhibit 128.

⁵⁷⁷ Id. The Subcommittee notes that the Citizen Action plan to defeat Republicans during the 1996 election was produced to the Subcommittee not by the consumer organization, but by the Democratic National Committee.

Just days after that plan was written, Heather Booth – a founder, co-director and president of Citizen Action – drafted a memorandum to three Democratic National Committee staff members that discussed field mobilization during the 1995 and 1996 elections.⁵⁷⁸ The memo lists seven organizations, including two unions and Citizen Action, that “will commit substantial resources for some version of a targeted Congressional District mobilization. Each of these groups will want to make their own presentation to the White House with their own plan.”⁵⁷⁹ The memo further states that at least one of the unions wanted “to work with the DNC on this.”⁵⁸⁰ Bill Hamilton, who served as Government Affairs Director for the Teamsters during 1995 and 1996, told the IBT Election Officer that Citizen Action was “focusing on the Congressional races and they were getting money from [the] AFL[-CIO] and [the] DNC.”⁵⁸¹ Mr. Hamilton explained that Citizen Action targeted congressional districts “where [the] Dem[ocratic] Party was most active, where we had field staff on the ground; with GOTV [and] voter registration.”⁵⁸²

The DNC had close links to Citizen Action throughout the 1996 campaign. For example, Heather Booth served as DNC training director.⁵⁸³ In that position, she

⁵⁷⁸ Memorandum from Heather Booth to Craig Smith, Mike Lux and Minyon Moore, January 25, 1995. Exhibit 129.

⁵⁷⁹ Id.

⁵⁸⁰ Id.

⁵⁸¹ In the Matter of Charges Against Former International Brotherhood of Teamsters, William W. Hamilton and Ronald Carey, Proceedings Before the Independent Review Board, Vol. II. (Notes of Interview with William W. Hamilton, Jr. conducted by the Election Officer for the International Brotherhood of Teamsters, April 29, 1997). Exhibit 130.

⁵⁸² Id.

⁵⁸³ “Campaign Training Academy #2 Planning Workbook,” Democratic National Committee, January 19-24, 1996. Exhibit 131. The Subcommittee notes that Ms. Booth also was a founder of Citizen Action and the Midwest Academy, an advocacy group affiliated with Citizen Action and is married to Paul Booth, the AFSCME organizing director alleged to have raised improper contributions for the Carey campaign. See, generally, Conboy Decision.

coordinated DNC-operated training centers for party activists at various sites around the country. At least one DNC training session, held in Los Angeles during the third week of January 1996, featured many people linked to the IBT contribution swap scandal:

- Martin Davis provided training on direct mail techniques. Mr. Davis pled guilty to felony charges stemming from the contribution swap scandals.
- Laura Hartigan and Terry McAuliffe discussed fundraising. Ms. Hartigan and Mr. McAuliffe participated in efforts by the DNC and Clinton-Gore '96 to obtain donors for the Carey campaign.⁵⁸⁴
- Michael Ansara spoke about phonebanks. Mr. Ansara pled guilty to charges relating to the contribution swaps.⁵⁸⁵
- Geoff Garin explained polling.⁵⁸⁶ Mr. Garin was a polling consultant to the AFL-CIO, the Clinton-Gore campaign, and the Teamsters.⁵⁸⁷ Mr. Garin has acknowledged sharing the results of AFL-CIO polls with White House officials.⁵⁸⁸ Also, the Teamsters may have made the results of a poll Mr. Garin conducted for the IBT “available privately to the President’s political assistant, Doug Sosnik.”⁵⁸⁹
- Ira Arlook gave a presentation on the role of labor unions.⁵⁹⁰ Mr. Arlook is executive director and a founder of Citizen Action.⁵⁹¹

Continuing Labor Coalition After 1996

One week after President Clinton was sworn in for a second term, the Teamsters and the AFL-CIO began planning their strategy for the 1997-1998 election cycle. Specifically, senior federation officials discussed “grassroots advocacy and the need to do

⁵⁸⁴ See, generally, Hamilton Indictment; Davis Information; and S. Rept. 105-167, Vol. 3, March 10, 1998.

⁵⁸⁵ See, U.S. v. Martin Davis and Michael Ansara, Appearances before Hon, Denny Chin, September 18, 1997.

⁵⁸⁶ Exhibit 131.

⁵⁸⁷ See, generally, Senate Committee on Governmental Affairs, Deposition of Geoffrey Garin, September 5, 1997.

⁵⁸⁸ Id. at 37.

⁵⁸⁹ Memorandum from Bill Hamilton to Ron Carey, June 14, 1996. Exhibit 132.

⁵⁹⁰ “AFL-CIO Labor '96 Training Presenters.” Exhibit 133.

⁵⁹¹ Exhibit 131.

more,”⁵⁹² and announced a “series of ads [to run] during the Easter [Congressional] recess”⁵⁹³ and a leafleting campaign targeting select Republican congressmen.⁵⁹⁴ That same month, the Teamsters donated \$20,000 towards a \$300,000 advertising campaign targeting Republican-held congressional districts, conducted by AFSCME and the National Council of Senior Citizens under the auspices of the “Committee for American’s [sic] Families.”⁵⁹⁵

c. The Magnitude of the IBT’s Political Largesse

The IBT’s unprecedented mobilization in the presidential and congressional elections since 1992 cost a similarly unprecedented amount of money. Moreover, a good portion of these funds did not come from the IBT’s separate, segregated political fund, DRIVE. Joseph Anthony Selsavage, the IBT’s accounting manager, testified that the Teamsters spent nearly \$7 million from the IBT’s general treasury – primarily dues money – on 1996 political action efforts. In the testimony quoted below, Mr. Selsavage answered questions about specific items on forms the Teamsters file annually with the Internal Revenue Service:

Q: Do you know why there was an increase of well over \$800,000 from 1995 to 1996 in [money spent on] Civic Betterment?

Selsavage: Because the IBT made significant contributions for Get Out The Vote efforts in 1996 that they did not make in 1995.

⁵⁹² Memorandum from Bill Hamilton to Ron Carey and Tom Sever, February 7, 1997. Exhibit 134.

⁵⁹³ Id.

⁵⁹⁴ Id.

* * *

Q: Do you know why the Reimbursed Salaries line increased over \$2 million from 1995 to 1996?

Selsavage: Because the IBT utilized a number of individuals who are local, are on local payrolls, for which they reimbursed the local unions for, in organizing the Get Out The Vote efforts in 1996.

* * *

Q: Do you know why the spending on Publicity and Advertising rose over \$4 million from 1995 to 1996?

Selsavage: Yes...independent expenditures that were made for radio ads for candidates during the 1996 Federal elections which were classified as Publicity and Advertising.⁵⁹⁶

The Subcommittee has substantial information that lends credence to Mr.

Selsavage's testimony. Forms the IBT filed with the Internal Revenue Service during 1992 and 1994 (both election years) show similar spikes in the programmatic areas identified by Mr. Selsavage as election-related:

- Between 1991 and 1992, the amount the IBT spent on "civic betterment" contributions increased by \$208,856.⁵⁹⁷ While the amount decreased between 1993 and 1994,⁵⁹⁸ it skyrocketed by more than \$1.2 million between 1995 and 1996.⁵⁹⁹
- Similarly, the amount spent on publicity and advertising increased from \$255,124 in 1991⁶⁰⁰ to \$535,851 in 1992.⁶⁰¹ During 1993, the amount slightly decreased to \$445,799,⁶⁰² only to shoot up again in 1994 to \$589,664.⁶⁰³

⁵⁹⁵ Id. The Subcommittee notes that the Election Officer for the International Brotherhood of Teamsters stated that the National Council of Senior Citizens was peripherally involved in the contribution swaps. See, Conboy Decision at 4.

⁵⁹⁶ Selsavage Depo. at 69, 71, 77.

⁵⁹⁷ IRS Form 990, 1991 & 1992 Tax Years, at Part II, Line 22.

⁵⁹⁸ IRS Form 990, 1993 & 1994 Tax Years, at Part II, Line 22.

⁵⁹⁹ IRS Form 990, 1995 & 1996 Tax Years, at Part II, Line 22.

⁶⁰⁰ IRS Form 990, 1991 Tax Year, at Part II, Line 43.

⁶⁰¹ IRS Form 990, 1992 Tax Year, at Part II, Line 43.

⁶⁰² IRS Form 990, 1993 Tax Year, at Part II, Line 43.

- In 1991, the IBT reported that it did not reimburse any local for salaries or benefits.⁶⁰⁴ During 1992, however, the Teamsters reimbursed local unions \$439,613 in expenses and \$1,238,649 in salaries.⁶⁰⁵ Those figures increased in 1993 to \$2,620,568.⁶⁰⁶ In 1994, a election year, the IBT spent \$2,280,053 reimbursing benefits, expenses and salaries.⁶⁰⁷

Furthermore, the IBT made millions of dollars in so-called “soft money” contributions to third-party groups that assisted the Democratic Party and its candidates. During the course of its investigation, the Subcommittee found that these political contributions apparently were obscured by the ways in which the Teamsters described the expenditures on forms filed with various federal agencies. As a result, it is difficult, if not impossible, to track every dollar the Teamsters spent for political purposes. Nonetheless, the Subcommittee was able to document the following examples cited below:

- During 1995, the IBT used at least “\$200,000 in [General] Treasury funds, with a comparable amount of DRIVE money”⁶⁰⁸ to make “civic betterment” contributions.
- A year later, the IBT made \$885,000 in contributions to various groups. These included: \$475,000 contribution to the Campaign for a Responsible Congress, a group affiliated with Citizen Action;⁶⁰⁹ \$85,000 to the National Council of Senior Citizens;⁶¹⁰ \$100,000 to Project VOTE;⁶¹¹ and an additional \$75,000 to Project VOTE.⁶¹²
- Bank records obtained by the Subcommittee pursuant to subpoena show that, in 1996, the Teamsters also donated at least:

⁶⁰³ IRS Form 990, 1994 Tax Year, at Part II, Line 43.

⁶⁰⁴ IRS Form 990, 1991 Tax Year, at Part II, Line 43.

⁶⁰⁵ IRS Form 990, 1992 Tax Year, at Part II, Line 43.

⁶⁰⁶ IRS Form 990, 1993 Tax Year, at Part II, Line 43.

⁶⁰⁷ IRS Form 990, 1994 Tax Year, at Part II, Line 43.

⁶⁰⁸ Memorandum from Bill Hamilton to Tom Sever, December 27, 1995. Exhibit 135.

⁶⁰⁹ Conboy Decision at 10.

⁶¹⁰ *Id.* at 74.

⁶¹¹ Check #34306 from the IBT to Project Vote in the amount of \$100,000, October 24, 1996.

Exhibit 136.

⁶¹² Check #34564 from the IBT to Project Vote in the amount of \$75,000, October 31, 1996. Exhibit

137.

- ◆ \$292,000 to third-party groups that assisted the Democratic Party,⁶¹³
- ◆ \$245,370 to various Democratic candidates for state and local elective office,⁶¹⁴
- ◆ \$104,040 to local – as opposed to state – Democratic Party committees,⁶¹⁵ and
- ◆ \$18,000 to political action committees aligned with the Democratic Party, candidates and causes.⁶¹⁶
- ◆ In addition, the IBT spent \$94,733 on consultants who produced advertising and other materials for the union’s political action efforts.⁶¹⁷

The Subcommittee notes that all of these contributions were made from the IBT General Treasury, and not DRIVE.

d. Teamsters Spend on Politics While Going Broke

Using the substantial documentary record and Mr. Selsavage’s testimony, and assuming that the IBT employed similar accounting practices throughout the period 1992 to 1996, the Subcommittee estimates that the Teamsters may have spent more than \$18 million in dues money on expenses for the union’s political action efforts over the five-year period. Over the same period, the Teamsters borrowed \$15,975,000.⁶¹⁸ Thus, the IBT’s massive political action expenditures occurred at a time when – as noted in other sections of this report – the Teamsters’ net worth declined by approximately \$137.3 million.

⁶¹³ See, generally, Subcommittee Listing of International Brotherhood of Teamsters Selected Transactions, Date Order Based on Check Registers for 1996; International Brotherhood of Teamsters Disbursement Registers, DRIVE Political; and International Brotherhood of Teamsters, Disbursement Registers, DRIVE E & L (1996). Exhibit 138.

⁶¹⁴ Id.

⁶¹⁵ Id.

⁶¹⁶ Id.

⁶¹⁷ Id.

⁶¹⁸ Labor Organization Annual Reports, 1991-1996, at Schedule 8.

Indeed, in January 1997, Mr. Sever told the GEB that the IBT had a net deficit of \$13,500,000 for the first nine months of 1996.⁶¹⁹ He explained that a major portion of that deficit was due to political action: “In addition to \$7.1 million in costs included in the financial statements for the 25th International Convention, the financial statements reflect increased costs for membership education on legislative issues including the AFL-CIO special assessment.”⁶²⁰ Consolidated Fund Income Statements for 1996 attached to Mr. Sever’s report show that the IBT spent a total of \$2,012,496.58 on legislative and political education,⁶²¹ and \$6,860,231 on affiliation fees,⁶²² which partially funded the AFL-CIO’s political action efforts.

e. The Teamsters Demand Results

The Teamsters’ myriad efforts to help elect Bill Clinton and other Democratic candidates did not go unnoticed. In addition to the Clinton campaign manager’s expressions of gratitude, the IBT also received the reward of having a DRIVE representative serve on the Clinton Transition team developing “policy and program recommendations for the new leadership at the Department of Transportation.”⁶²³

And when Democrats did not vote how the IBT wanted them to, they stopped receiving political contributions. One month before the 1996 election, the House of Representatives passed, in the words of Bill Hamilton, “a special provision sought after by

⁶¹⁹ Exhibit 5.

⁶²⁰ Id.

⁶²¹ Id. at Exhibit B.

⁶²² Id.

⁶²³ GEB Minutes, January 18, 1993, at 3. Exhibit 139. The success of the IBT's efforts to influence policy at the Department of Transportation, particularly regarding implementation of NAFTA, is currently under investigation by the Subcommittee.

Fed Ex, which [the IBT] opposed, designed to make it harder for FedEx workers to join unions.”⁶²⁴ Democratic support for this provision upset the Teamsters. Mr. Hamilton noted:

Every member of the Tennessee delegation voted for it. Representatives Clement and Gordon, who are currently climbing up our legs for campaign contributions, actively lobbied for the provision, over our objections. Congressman Ford, who has leaned on us all year for money for his son’s election, voted for the provision.

In light of this, I see no reason for DRIVE and the Teamsters to give any more money to incumbent Tennessee members of Congress during this election cycle.

...[I]f Democrats are going to choose between local corporations and the workers for those corporations, then we expect them to side with the workers. Otherwise, we might as well cut our deals with the Republicans.⁶²⁵

Mr. Hamilton also was disappointed in Senate Democrats for supporting this provision. He originally “had intended to give \$250K-\$500K to the Democratic Senate Campaign Committee; then [the] Senate leadership treated [the IBT] shabbily on [the FedEx] vote in October,” so the IBT did not make the contribution it had planned.⁶²⁶

f. The Contribution Swaps

Near the conclusion of the 1996 IBT election, the Election Officer received complaints alleging that the campaign of President Ron Carey may have violated election rules. After conducting an investigation, the Election Officer determined that the campaign

⁶²⁴ Exhibit 100.

⁶²⁵ Id. (emphasis in original).

had engaged in various “contribution swap” schemes. In essence, wealthy individuals agreed to contribute to a fundraising committee established by the Carey campaign and, in exchange, the IBT contributed larger amounts to congressional candidates and/or get-out-the-vote efforts supported by those individuals.

Around the time that the Election Officer began her investigation, the United States Attorney for the Southern District of New York (“Southern District”) launched a criminal probe into the contribution swaps involving the Carey Campaign. To date, five people affiliated with the Carey campaign have pled guilty to criminal charges, and Mr. Hamilton has been indicted. During the course of the investigation, the Election Officer and the Southern District uncovered another contribution swap scheme, involving the Democratic National Committee and the Clinton-Gore re-election campaign. That plan would have operated along the same lines as the initial swaps, but would have involved different parties: Democratic donors would contribute to the Carey campaign and, in exchange, the Teamsters would donate larger amounts than they had previously promised to the DNC, state Democratic parties and candidates. The Southern District found several overt acts were taken in furtherance of the scheme but, to date, has not found evidence that the contribution swap involving the DNC and Clinton-Gore campaign was ever consummated.

Yet, these swap plans cannot be viewed in a vacuum. In fact, the schemes are part of the coordination between the Teamsters, the DNC, and various advocacy groups that began as early as 1992. The Subcommittee notes that in their attempt to defend themselves before the Independent Review Board, Mr. Carey and Mr. Hamilton claimed

⁶²⁶ Id.

that the IBT donations central to the contribution swaps were really part of the union's program of political action.⁶²⁷ Indeed, Citizen Action and the other organizations involved in the schemes kept a portion of the transferred funds to use for their own purposes. Perhaps the best way to put the swap schemes into context is to view them in relation to the activities of the DNC, Citizen Action, Project VOTE, the AFL-CIO, and other groups that worked with the Teamsters. The following timeline serves to illustrate these interwoven relationships:

June 1996

On June 7th, the AFL-CIO donated \$100,000 to Citizen Action.⁶²⁸ That same day, the Teamsters contributed \$10,000 to a DNC gala.⁶²⁹ On June 12th, Laura Hartigan, the Clinton-Gore Finance Director, sent a memorandum to Martin Davis requesting IBT contributions to various state Democratic Party committees.⁶³⁰ A copy of that memorandum was given to Richard Sullivan, the DNC Finance Director and two DNC officials.⁶³¹ Martin Davis telephoned Mr. McAuliffe on June 14th.⁶³² On June 17th, Mr. Davis, Ms. Hartigan and Mr. McAuliffe attended a luncheon with President Clinton at the White House.⁶³³ On June 21st, Mr. Hamilton requested that donations be made in response

⁶²⁷ See, generally, In the Matter of Charges Against Former International Brotherhood of Teamsters William W. Hamilton and Ronald Carey, Proceedings Before the Independent Review Board, January 22, 1998.

⁶²⁸ Check #060801 from the AFL-CIO to Citizen Action in the amount of \$100,000, June 7, 1996. Exhibit 140. Bank records reveal that the AFL-CIO donated \$375,000 to Citizen Action prior to June 1996.

⁶²⁹ Federal Election Commission, *Contributions 1995-96, Democratic Republican Independent Voter Education Committee*, <<http://www.tray.com>>.

⁶³⁰ Memorandum from Laura Hartigan to Martin Davis, June 12, 1996. Exhibit 141.

⁶³¹ Id.

⁶³² McAuliffe Call Sheet, June 14, 1995. Exhibit 142.

⁶³³ Memorandum from Doug Sosnik. Exhibit 143.

to Ms. Hartigan's June 12th memo.⁶³⁴ Three days later, the Teamsters donated \$241,500 to some of the state parties listed on the June 12th memorandum.⁶³⁵ On June 25th, the day after the checks were issued, Ms. Hartigan sent copies of the IBT checks to Mr. Sullivan.⁶³⁶ Subsequently, Mr. McAuliffe received fundraising "credit" from the DNC for these IBT contributions to the state parties.⁶³⁷

July 1996

During July, Mr. Sullivan had discussions with Mark Thomann, a DNC fundraiser, about persuading a foreign national to donate \$100,000 to the Carey campaign. Mr. Thomann determined that the foreign national was not legally eligible contribute to the Carey campaign. Ultimately, Judith Vazquez, the foreign national, made a \$100,000 contribution to Vote Now '96 instead.⁶³⁸

On July 2nd, Mr. Sullivan received telephone messages from Mr. Davis, Ms. Hartigan (informing Mr. Sullivan "you need to speak w/Martin Davis"), Mr. Thomann, and another message from Ms. Hartigan (stating that her call was "[V]ery important").⁶³⁹ On July 3rd, Mr. Sullivan received another message from Martin Davis.⁶⁴⁰ Five days later, on July 8th, Mr. Sullivan once again received a message from Mr. Davis.⁶⁴¹ On July 9th, Mr. Sullivan received two messages from Ms. Hartigan, the second of which requested that Mr. Sullivan call her "ASAP" regarding two letters that Ms. Hartigan was "handing"

⁶³⁴ Memorandum from Bill Hamilton to Greg Mullenholtz, June 24, 1996. Exhibit 144

⁶³⁵ Various checks produced by the International Brotherhood of Teamsters. Exhibit 145.

⁶³⁶ Facsimile from Laura Hartigan to Richard Sullivan with attachments, June 25, 1996. Exhibit 146.

⁶³⁷ Directed Donor Checks Received to Date, August 23, 1996. Exhibit 147.

⁶³⁸ See, generally, S. Rept. 106-167, 2nd Sess., Vol. III.

⁶³⁹ Richard Sullivan call sheet, July 2, 1996. Exhibit 148.

to him; one message from Mr. Davis, regarding the “Carey contribution;” and two messages from Mr. Thomann.⁶⁴² On July 11th, Ms. Hartigan twice called Mr. Sullivan, once to ask, “where are we at?” regarding the “Teamsters money;” the second time to ask Mr. Sullivan to “please call” Mr. Davis. Mr. Sullivan also received two telephone calls from Mr. Davis, and Mr. Thomann called to say he “thinks he can do it. [Will know] by 6pm his time tonite [sic].”⁶⁴³

August 1996

The start of the month saw the DRIVE Educational and Legislative Fund contribute \$10,000 to the Democratic Legislative Campaign Committee.⁶⁴⁴ Four days later, Mr. Sullivan received a message from Ms. Hartigan asking whether Mr. Davis had “the list,”⁶⁴⁵ apparently referring to a list of state Democratic parties to which the DNC wanted the IBT to contribute.

On August 6th, Mr. Sullivan received messages from Mr. Thomann and Ms. Hartigan, who told Mr. Sullivan that she wanted to speak with him “re: Teamsters money.”⁶⁴⁶ The next day, Mr. Sullivan once again received messages from Mr. Thomann and Ms. Hartigan, who said, “we w/lose 1 million [dollars] unless you call” Mr. Davis.⁶⁴⁷ On August 8th, Mr. Sullivan received a telephone call from Mr. Davis.⁶⁴⁸ Two days later,

⁶⁴⁰ Richard Sullivan call sheet, July 3, 1996. Exhibit 149.

⁶⁴¹ Richard Sullivan call sheet, July 8, 1996. Exhibit 150.

⁶⁴² Richard Sullivan call sheet, July 9, 1996. Exhibit 151.

⁶⁴³ Richard Sullivan call sheet, July 11, 1996. Exhibit 152.

⁶⁴⁴ DRIVE E&L Fund Disbursement Authorization Approval, August 1, 1996. Exhibit 153.

⁶⁴⁵ Richard Sullivan call sheet, August 5, 1996. Exhibit 154.

⁶⁴⁶ Richard Sullivan call sheet, August 6, 1996. Exhibit 155.

⁶⁴⁷ Richard Sullivan call sheet, August 7, 1996. Exhibit 156.

⁶⁴⁸ Richard Sullivan call sheet, August 8, 1996. Exhibit 157.

Mr. Sullivan drafted a memorandum to Mr. Davis requesting IBT contributions to a number of state Democratic party committees.⁶⁴⁹

On August 11th, the day after the memorandum was written, Mr. Davis forwarded it to Mr. Hamilton, with the handwritten notation that he would “let you [Mr. Hamilton] know when they [the DNC] have fulfilled their commitment.”⁶⁵⁰

One day after Mr. Davis forwarded the memorandum to Mr. Hamilton, Mr. McAuliffe received two telephone calls from Mr. Davis.⁶⁵¹ Twenty-four hours later, on August 14th, DRIVE donated \$30,000 to the DNC.⁶⁵² On August 21st, Mr. Sullivan received two messages from Mr. Thomann and one from Mr. Davis.⁶⁵³

September 1996

On September 3rd, Mr. Sullivan received messages from Mr. Thomann and from Mr. Davis, who said he wanted “to talk about Teamsters.”⁶⁵⁴ Two days later, Mr. Sullivan received an “important” message from Mr. Davis, and one from Ms. Hartigan.⁶⁵⁵ Mr. McAuliffe received a telephone call from an official at the Democratic Senatorial Campaign Committee, stating that the chairman of that committee “would like to set-up a

⁶⁴⁹ Memorandum from Richard Sullivan to Martin Davis, August 10, 1996. Exhibit 158.

⁶⁵⁰ Facsimile from Martin Davis to Bill Hamilton, August 11, 1996. Exhibit 159. The Subcommittee notes that Mr. Davis referred to the events outlined above in his September 1997 plea allocution. See, U.S. v. Martin Davis and Michael Ansara, Appearance Before Hon. Denny Chin (SDNY), September 18, 1997, at 25-27.

⁶⁵¹ McAuliffe call sheet, August 14, 1996. Exhibit 160.

⁶⁵² International Brotherhood of Teamsters Final Payment Register, August 15, 1996. Exhibit 161.

⁶⁵³ Richard Sullivan call sheet, August 21, 1996. Exhibit 162.

⁶⁵⁴ Richard Sullivan call sheet, September 3, 1996. Exhibit 163.

⁶⁵⁵ Richard Sullivan call sheet, September 5, 1996. Exhibit 164.

phone call or meeting with you.”⁶⁵⁶ As previously noted, documents filed by the Southern District allege that one of the contribution swap schemes involved the DSCC.

Four days later, on September 9th, Mr. Sullivan left a message for Mr. McAuliffe.⁶⁵⁷ The next day, Mr. Sullivan received a “very important” message from Mr. Davis, and one from Ms. Hartigan asking him to “Plz. call Martin Davis.”⁶⁵⁸ Mr. Davis also telephoned Mr. McAuliffe, saying that “Sully” has not returned his calls.⁶⁵⁹

On September 13th, the AFL-CIO donated \$250,000 to Citizen Action.⁶⁶⁰ A week later, on September 20th, Mr. Davis called Mr. McAuliffe.⁶⁶¹ On September 26th, Mr. Sullivan received messages from Ms. Hartigan and Mr. Thomann.⁶⁶² Four days later, Mr. Sullivan was called by Mr. Davis, Mr. Thomann, and Donald Fowler, the DNC Chairman, who said to call “ASAP.”⁶⁶³

October 1996

At the beginning of October, Mr. Sullivan received messages from Ms. Hartigan and Mr. McAuliffe.⁶⁶⁴ On October 5th, Mr. Nash wrote a memo regarding the Carey campaign containing the handwritten note: “Chuck Blitz” on it.⁶⁶⁵ Five days later, on October 15th, Mr. Sullivan received telephone calls from Mr. McAuliffe and Mr. Davis.⁶⁶⁶

⁶⁵⁶ McAuliffe call sheet, September 5, 1996. Exhibit 165.

⁶⁵⁷ McAuliffe call sheet, September 9, 1996. Exhibit 166.

⁶⁵⁸ Richard Sullivan call sheet, September 10, 1996. Exhibit 167.

⁶⁵⁹ McAuliffe call sheet, September 10, 1996. Exhibit 168.

⁶⁶⁰ Check #064538 from the AFL-CIO to Citizen Action in the amount of \$250,000, September 13, 1996. Exhibit 169.

⁶⁶¹ McAuliffe call sheet, September 20, 1996. Exhibit 170.

⁶⁶² Richard Sullivan call sheets, September 26, 1996. Exhibit 171.

⁶⁶³ Richard Sullivan call sheets, September 30, 1996. Exhibit 172.

⁶⁶⁴ Richard Sullivan call sheet, October 2, 1996. Exhibit 173.

⁶⁶⁵ Memorandum from Jere Nash to Steve Wattenmaker, October 5, 1996. Exhibit 174.

⁶⁶⁶ Richard Sullivan call sheets, October 15, 1996. Exhibit 175.

The next day, the AFL-CIO donated \$21,000 to Citizen Action.⁶⁶⁷ On October 18th, Mr. McAuliffe's assistant, Jason McIntosh, received an "urgent" message from Mr. Davis's firm, The November Group, and another from Mr. Davis himself.⁶⁶⁸

On October 21st, the AFL-CIO contributed \$450,000 to Citizen Action.⁶⁶⁹ Three days later, the Teamsters donated \$475,000 to a Citizen Action subsidiary,⁶⁷⁰ and the AFL-CIO contributed \$540,000 to Citizen Action.⁶⁷¹ The Subcommittee notes that the Teamsters donation to Citizen Action was part of the contribution swaps.⁶⁷² The same day, the Teamsters also contributed \$100,000 to Project VOTE.⁶⁷³ Once again, the Election Officer found that this transaction was part of the contribution swaps.⁶⁷⁴ Finally, on October 31st, the AFL-CIO contributed \$175,000 to Citizen Action,⁶⁷⁵ and the Teamsters donated an additional \$75,000 to Project VOTE.⁶⁷⁶

November 1996

On November 4th, the AFL-CIO contributed \$150,000 to Citizen Action.⁶⁷⁷ As previously noted, the Election Officer reported that this donation was part of a

⁶⁶⁷ Check #065686 from the AFL-CIO to Citizen Action in the amount of \$21,000, October 16, 1996. Exhibit 176.

⁶⁶⁸ Jason McIntosh call sheet, October 18, 1996. Exhibit 177.

⁶⁶⁹ Check #065867 from the AFL-CIO to Citizen Action in the amount of \$450,000, October 21, 1996. Exhibit 178.

⁶⁷⁰ Check #34285 from the International Brotherhood of Teamsters to Citizens for a Responsible Congress in the amount of \$475,000, October 24, 1996. Exhibit 179.

⁶⁷¹ Check #065883 from AFL-CIO to Citizen Action in the amount of \$540,000, Oct. 24, 1996. Exhibit 180.

⁶⁷² See, generally, Conboy Decision, Hamilton Indictment.

⁶⁷³ Exhibit 136.

⁶⁷⁴ See, generally, Quindel and Conboy Decisions.

⁶⁷⁵ Check #066149 from the AFL-CIO to Citizen Action in the amount of \$175,000, October 31, 1996. Exhibit 181.

⁶⁷⁶ Id.

⁶⁷⁷ Check #066489 from the AFL-CIO to Citizen Action in the amount of \$150,000, November 4, 1996. Exhibit 182.

contribution swap involving the IBT.⁶⁷⁸ Mr. Blitz telephoned Mr. Ansara's company, the Share Group, on November 7th, November 8th, and November 11th.⁶⁷⁹ Within 24 hours, Citizen Action – for which Mr. Blitz acted as a fundraiser – paid the Share Group \$75,000.⁶⁸⁰

1997

On January 5th and 6th, Mr. Blitz telephoned Jere Nash,⁶⁸¹ Mr. Carey's campaign manager who later that year admitted taking part in the contribution swaps.⁶⁸² On January 13th, a Citizen Action subsidiary made a \$50,000 payment to the Share Group.⁶⁸³ The next day, Mr. Blitz once again telephoned Mr. Nash.⁶⁸⁴

On April 10th, the Teamsters donated \$5,000 to Citizen Action.⁶⁸⁵ Barely a month later, on May 6th, the AFL-CIO contributed \$50,000 to Citizen Action.⁶⁸⁶ Two days later, an AFL-CIO subsidiary donated another \$5,000 to Citizen Action.⁶⁸⁷

3. Conclusions

⁶⁷⁸ See, generally, Conboy Decision.

⁶⁷⁹ Telephone records of Charles Blitz, December 7, 1996. Exhibit 183.

⁶⁸⁰ Check #112 from Citizen Action Fund to Share Group in the amount of \$75,000, November 12, 1996. Exhibit 184.

⁶⁸¹ Telephone records of Charles Blitz, February 1, 1997. Exhibit 185.

⁶⁸² See, generally, U.S. v. Nash, Appearance before Hon. Denny Chin, September 18, 1997.

⁶⁸³ Check #1101 from Citizens Fund to Share Group in the amount of \$50,000, January 13, 1997. Exhibit 186.

⁶⁸⁴ Telephone records of Charles Blitz, February 11, 1997. Exhibit 187.

⁶⁸⁵ Check #8154 from DRIVE Political Fund to Citizen Action in the amount of \$5,000, April 10, 1997. Exhibit 188.

⁶⁸⁶ Check #071488 from the AFL-CIO to Citizen Action in the amount of \$50,000, May 6, 1997. Exhibit 189.

⁶⁸⁷ Check #15420 from the AFL-CIO Housing and Building Investment Trusts to Citizen Action in the amount of \$1,000, May 8, 1997. Exhibit 190.

In the course of investigating alleged improper activities of the Teamsters' leaders, the Subcommittee developed a considerable body of information on the political conduct – and, in some cases, possible misconduct – of the Teamsters in the 1990s. At least five themes emerged from the investigation.

1. The emergence and execution of a pro-Democratic political agenda. From 1992 through the 1996 election cycle, the Teamsters waged a political campaign with a singular focus: to cultivate a strong, symbiotic relationship with the Clinton Administration and, more generally, the Democratic Party. The political agenda of the Teamsters' leadership was shaped by, among others, Hal Malchow, a Democratic Party consultant, and Douglas Sosnik, President Clinton's former Political Director (now Counselor to the President).

2. The Teamsters' leadership appears to have linked political contributions to assistance from the politicians it supported. Internal memoranda show that IBT leaders did not hesitate to cut off the flow of contributions when political leaders failed to act in their interest. Moreover, as discussed *infra*, IBT money appears to have motivated the Clinton Administration to assist the Teamsters with its longstanding strike of Diamond Walnut Growers, Inc. To the extent the Teamsters' leadership conditioned political contributions or support on assistance from the White House or other government officials, they may have violated federal bribery laws.⁶⁸⁸

3. The Teamsters' leaders coordinated the union's political efforts with other labor unions, the White House, and supposedly "independent" non-profit organizations. In

⁶⁸⁸ 18 U.S.C. § 201 *et seq.* Among other things, Section 201 applies to whoever "directly or indirectly, corruptly gives, offers or promises anything of value to any public official . . . , or offers of

addition to millions of dollars in direct political contributions made from DRIVE, IBT leaders appear to have tapped general treasury funds for \$18 million more, which they spent in support of Democratic political candidates. However, because the Federal Election Campaign Act generally prohibits labor unions from engaging in political activities relating to federal elections,⁶⁸⁹ IBT leaders could not support Democratic candidates directly. Hence the Teamsters' leadership contributed money to tax-exempt organizations that conducted get-out-the-vote and issue advocacy activities; these contributions *had the effect* of assisting Democratic candidates.

The legality of such contributions is questionable. FEC regulations permit a labor organization to “support or conduct voter registration and get-out-the-vote drives” to non-union members and the general public, but only if they meet certain conditions, including the following:

- (1) The...labor organization shall not make any communication expressly advocating the election or defeat of any clearly identified candidate(s) or candidates of a clearly identified political party as part of the voter registration or get-out-the-vote drive.
- (2) The registration or get-out-the-vote drive shall not be coordinated with any candidate(s) or political party.⁶⁹⁰

Some of the support IBT leadership gave to get-out-the-vote (“GOTV”) and voter registration drives appears to have violated the spirit, if not the letter, of these regulations.

promises any public official . . . to give anything of value to any other person or entity, with intent to influence any official act.”

⁶⁸⁹ 2 U.S.C. § 441b(b)(2). This provision contains exceptions that allow a labor organization to (1) communicate with its members or families on any subject, (2) conduct non-partisan voter registration and get-out-the-vote activities “aimed at its members and their families,” and (3) establish and administer a political action committee or separate segregated fund “to be utilized for political purposes.”

⁶⁹⁰ 11 C.F.R. § 114.4(d).

The overarching goal the IBT's political efforts was to assist Democratic candidates, and this goal animated not only DRIVE contributions to Democratic candidates and parties, but also general treasury contributions to GOTV and voter registration efforts. In an August 29, 1996 memorandum, Bill Hamilton noted that he had put aside \$1 million "in treasury funds" to help "tak[e] back the Congress" and that the Teamsters' efforts would place "new emphasis on voter education."⁶⁹¹ In fact, IBT leadership contributed several hundred thousand dollars to voter education and GOTV efforts in the fall of 1996. Most notably, IBT leaders contributed \$175,000 to Project Vote. Two extraordinary memoranda from Bill Hamilton to Ron Carey show that these contributions were made with partisan intent. The first, dated October 17, 1996, notes the following:

Project Vote is working hard to turn out minority voters in North Carolina, where Harvey Gantt is running close to defeating Sen. Jesse Helms...All of our North Carolina locals are active in the effort to defeat Helms...We have been asked to provide \$75,000 to Project Vote. I can't think of a more important goal anywhere in the country than to turn out a huge vote that helps defeat Helms.⁶⁹²

The memorandum clearly demonstrates that the goal of IBT leadership was to help a particular candidate for federal office – Harvey Gantt – and not to support non-partisan GOTV efforts. Whether or not these contributions constitute the type of activity prohibited by FEC regulations, the contributions, at a minimum, violate the law's apparent intent. What the IBT could not do directly – namely, spend treasury funds to help a particular candidate – it did through an ostensibly non-partisan GOTV organization.

⁶⁹¹ Exhibit 114.

⁶⁹² Memorandum from Bill Hamilton to Ron Carey, October 17, 1996. Exhibit 191.

The irony of this situation was underscored by a second memorandum written by Bill Hamilton on October 23, 1996 and addressed to Ron Carey. It reads, in part, as follows:

I would like to move an additional \$100,000 in treasury dollars into the Project VOTE GOTV efforts in California, Missouri, New Jersey, Colorado, Pennsylvania and Michigan.

These funds will be used to pay for non-partisan GOTV phone calls to black households in selected congressional districts.

In each instance *they will benefit the Clinton campaign but also, and more specifically, congressional and senate races that we are tracking*. For example, they will do only Spanish-surname calling in Orange County, where the candidate supported vigorously by our [Joint Council] 92, Loretta Sanchez, is now said to be in a dead heat against Bob Dornan.⁶⁹³

This memorandum indicates that IBT leadership was well aware Project Vote's "non-partisan GOTV phone calls" would be targeted to help specific Democratic candidates. These IBT contributions, at a minimum, violate the spirit of the FEC regulations cited above, which prohibit IBT resources from being expended on partisan GOTV or voter education efforts. The contributions also have the same effect of a direct IBT GOTV effort aimed primarily at individuals the union knows to lean Democratic, which would itself violate FEC regulations.⁶⁹⁴ In short, IBT contributions to GOTV and voter registration efforts stand on extremely shaky legal ground.

4. The Teamsters' leadership poured money into political efforts as the union went broke. Between 1992 and 1996, the IBT's net worth dropped precipitously. At the start

⁶⁹³ Exhibit 117.

⁶⁹⁴ 11 C.F.R. § 114.4(d)(3).

of 1992, the union's net worth stood at nearly \$153.8 million. By the end of 1996, it had dropped by \$137.3 million to \$16.5 million. This occurred despite the fact that, in 1994, the Teamsters' diminishing fortunes triggered a provision of the IBT Constitution that required rank-and-file members to contribute additional union dues. While navigating through these financial straits, the Teamsters' leadership embarked on its aggressive – and costly – political action program.

5. The Teamsters' political agenda led to the contribution swap schemes that corrupted the union's 1996 elections. In 1992, IBT leaders began to develop close ties with the Clinton Administration and the Democratic Party, and, more specifically, with the Democratic-leaning organizations that ended up participating in the swap schemes, including Citizen Action, Project VOTE, and the National Council for Senior Citizens. Without these close relationships, it is doubtful that IBT leaders could have perpetrated the swap schemes that are now the subject of criminal proceedings in New York.

B. The Teamsters Enlist the Clinton Administration's Help to Settle a Strike at Diamond Walnut

1. Summary

On September 4, 1991, approximately 600 members of Teamsters Cannery Workers Local No. 601 went on strike at Diamond Walnut Growers, Inc. of Stockton, California. Approximately half of the striking workers held year-round jobs; the rest were

employed seasonally, typically during the September-to-November walnut harvest.⁶⁹⁵ The strike was to become one of the union's most persistent and nagging issues.

By the summer of 1992, IBT President Ron Carey assigned the strike to top IBT troubleshooter Ron Carver.⁶⁹⁶ Mr. Carver, the Director of the Office of Strategic Campaigns, "developed and coordinated campaigns on behalf of local unions who were involved in disputes with employers."⁶⁹⁷ Mr. Carver recalls Mr. Carey telling him the Diamond Walnut strike "was very important to him."⁶⁹⁸ Mr. Carver saw his job as bringing as much pressure to bear as possible on Diamond Walnut in order to try to settle the strike.⁶⁹⁹ And that is what he tried to do.

Nevertheless, the strike dragged on and, in fact, continues today. Without question, the strike has cost the IBT considerably both in terms of public perception and money. On the former point, former Diamond Walnut President William Cuff testified that it was his impression the IBT was "embarrassed" by its inability to settle the strike.⁷⁰⁰ On the latter, the IBT has been paying strike benefits for over seven years; indeed, some 30 striking workers still receive such benefits.⁷⁰¹ Although Mr. Carver was not aware how much the Teamsters had spent on the strike,⁷⁰² Diamond Walnut estimated a total cost of over \$20 million.⁷⁰³

⁶⁹⁵ *Collective Bargaining and the Hiring of Permanent Strike Replacements: Hearing Before the Employment and Housing Subcommittee of the House Committee on Government Operations*, 102nd Cong., 2d Sess. 80 (1992).

⁶⁹⁶ Deposition of Ronald Carver, September 29, 1998, at 51.

⁶⁹⁷ *Id.* at 7.

⁶⁹⁸ *Id.* at 51.

⁶⁹⁹ *Id.* at 12.

⁷⁰⁰ O&I Hearing, October 6, 1998, at 91 (publication forthcoming).

⁷⁰¹ Carver Depo. at 52.

⁷⁰² *Id.* at 52-53.

⁷⁰³ O&I Hearing, October 6, 1998, at 91 (publication forthcoming).

In short, the Diamond Walnut strike was an important issue for the Teamsters and, over time, its importance increased as the union invested more and more money and political capital. The Teamsters' goal was to pressure Diamond Walnut until it settled the strike on favorable terms. To accomplish this objective, the Teamsters' leadership turned to the Clinton Administration, with which it enjoyed a close relationship.

Early in its investigation, the Subcommittee sought to examine what steps the Teamsters took to try to settle the strike with Diamond Walnut, and to focus on what the union asked of – and received from – the Clinton Administration in this regard.⁷⁰⁴ The Senate Committee on Governmental Affairs began investigating the Diamond Walnut matter in late 1997, but ceased operations in the relatively early stages of its inquiry.⁷⁰⁵ Nevertheless, in its final report, the Senate campaign finance probe presented information that indicated U.S. Trade Representative Mickey Kantor, at the urging of his friend, Deputy White House Chief of Staff Harold Ickes, called Diamond Walnut in “an attempt to assist the Teamsters.”⁷⁰⁶ The Subcommittee investigated whether, and to what extent, Mr. Ickes and Ambassador Kantor worked in concert to assist the IBT, including if, why, and how the union persuaded these two senior Clinton Administration officials to intercede in a relatively small, regional strike.

⁷⁰⁴ In the early part of 1998, the Subcommittee began investigating this issue in earnest. A subpoena issued on March 10, 1998 asked the IBT for “documents . . . relating to . . . communications between the Teamsters and the White House regarding . . . [the] Diamond Walnut Company Strike.” That subpoena yielded few relevant documents. Fortunately, the Subcommittee was able to secure documents from Diamond Walnut Growers, Inc., the Office of the United States Trade Representative, the Department of Labor, the Department of Agriculture, and other entities, in order to piece together the story of Teamster efforts to get the strike settled. A second subpoena for additional information related to the Diamond Walnut strike was issued to the IBT on November 2, 1998.

⁷⁰⁵ See, generally, *Investigation of Illegal or Improper Activities in Connection with 1996 Federal Election Campaigns*, Final Report of the Senate Committee on Governmental Affairs, 105th Cong., 2d Sess. 3655-3830 (1998).

⁷⁰⁶ *Id.* at 3658.

The latter question is crucial because information developed by the Subcommittee indicates that the White House was attempting to cultivate political contributions from the Teamsters around the time it agreed to assist the Union with the Diamond Walnut strike. If the Teamsters made or promised to make political contributions in exchange for help from the White House, or the White House sought IBT contributions in exchange for its help with the Diamond Walnut strike, then their actions may have been illegal under federal law.⁷⁰⁷

Investigating the Diamond Walnut strike turned out, in part, to be an exploration of the Teamsters' relationship with the White House and the Democratic Party around the 1996 elections. Perhaps the key component of that relationship was Harold Ickes, who became a focus of the Subcommittee's investigation because of his efforts to assist the Teamsters and because he may not have been fully forthcoming about those efforts when he testified before the Senate campaign finance inquiry. Mr. Ickes was deposed on September 22, 1997 and testified, in relevant part, as follows:

Q: What did the administration do regarding the Diamond Walnut Strike?

Ickes: Nothing that I know of.⁷⁰⁸

Harold Ickes' testimony became the subject of a preliminary investigation opened by Attorney General Janet Reno on September 1, 1998. On January 29, 1999, after five months of consideration, the Attorney General decided not to appoint an independent counsel to investigate whether Mr. Ickes perjured himself before the Senate Governmental

⁷⁰⁷ See, 18 U.S.C. § 201.

Affairs Committee. Ms. Reno found that “there is clear and convincing evidence that Ickes did not intend to lie” and “there are no reasonable grounds to believe that a successful prosecution of this matter might be possible.”⁷⁰⁹

In her decision, Attorney General Reno ignores several key facts and minimizes the testimony of several witnesses. Information developed by the Subcommittee – and presented at its October 6, 1998 hearing on Diamond Walnut – strongly suggests that Mr. Ickes urged his friend, U.S. Trade Representative Michael (“Mickey”) Kantor, to call Diamond Walnut and pressure the company to settle the strike, which he did. Moreover, as will be shown below, it is unlikely that Harold Ickes, at the time of his Senate deposition, had forgotten all of the circumstances surrounding Ambassador Kantor’s telephone call. As Subcommittee Chairman Pete Hoekstra concluded in an op-ed column published by the New York Times on November 18, 1998, “Given what we have learned, the Attorney General must seek the appointment of an independent counsel. The law demands nothing less.”⁷¹⁰ Unfortunately, Janet Reno did not view the Ickes matter similarly.

⁷⁰⁸ Senate Committee on Governmental Affairs, Deposition of Harold Ickes, Vol. 2, September 22, 1997 at 141.

⁷⁰⁹ *In re Harold McEwen Ickes*, United States District Court, District of Columbia Circuit, January 29, 1999.

⁷¹⁰ Pete Hoekstra, *Reason Enough for Reno*, N.Y. Times, November 18, 1998, at A31. Note that Mickey Kantor disagreed with many of the conclusions drawn by Representative Hoekstra and that he memorialized his thoughts in a November 20, 1998 letter to the Chairman. See, Exhibit 192. Ambassador Kantor’s principal points, followed by the Subcommittee’s response to each, are set forth below.

1. *William Cuff said he did not feel pressured by Ambassador Kantor’s call.* That misses the point. Mr. Cuff may not have felt pressured, but he thought the call was meant to pressure – that it was part of the IBT’s efforts to bring Diamond to its knees. Also, Mr. Cuff was sufficiently impressed by the call to raise it with his board at Diamond Walnut, and to note that Ambassador Kantor had said the strike “was interfering with international trade issues.” In short, it was hardly just a status call.

2. *Ambassador Kantor’s notes reflect that the call was simply to check the status of the strike and the prospects for settlement.* The information developed by the Subcommittee simply does not square with this explanation. Mr. Ickes clearly wanted his friend to pressure Diamond Walnut, as is evidenced

In the course of its investigation, the Subcommittee learned that the Teamsters also approached the Departments of Labor and Agriculture seeking help with the Diamond Walnut strike. The Teamsters were able to secure meetings with high-level department officials from whom they requested and received assistance. Ultimately, however, the strike went on.

The balance of this section discusses in detail the relationship between the Teamsters and the Clinton Administration in the context of the union's bitter strike at Diamond Walnut.

2. Findings

Bringing Teamsters Back Into the Democratic Fold

The Administration was aware that the Diamond Walnut strike was an important issue for the IBT and, moreover, that any assistance it could provide would be appreciated. In early 1995, the White House received a memorandum describing internal IBT politics and the role the union could play in President Clinton's re-election campaign.⁷¹¹ Steve Rosenthal, who at that time was the Associate Deputy Secretary of Labor and is now the head of the AFL-CIO's political division, stated that he "could have

by his partisan memos to Ambassador Kantor and his badgering his friend to make the call. More tellingly, Ambassador Kantor's notes were taken on the e-mail that specifically stated he was supposed to call Diamond Walnut to put pressure on the company. Finally, it is unlikely that Ambassador Kantor would document, in writing, any attempts to pressure a company he, as a cabinet officer, had dealings with.

3. *The article implies the USTR acted contrary to Diamond's interests.* Simply stated, it does no such thing. The article makes the point that the USTR was in a position to pressure Diamond because he had the power to help the company, or not, in upcoming negotiations -- which is the same point Ron Carver made to Ickes when he asked him to help the IBT settle the strike. The article is about the call itself, and it would have bordered on the irresponsible for Chairman Hoekstra to neglect the power dynamics underlying Mr. Kantor's call. The article says nothing about what happened after the call was made.

either written this memo or that this memo was kind of pieced together from memos that I had written like this and perhaps some information [was] added and other information was left out. But it's also conceivable that I could have written this memo.”⁷¹² Thus, Mr. Rosenthal, while serving as Associate Deputy Secretary at the Department of Labor, had a hand in writing this extraordinary memo designed to convince the White House of the “value”⁷¹³ of cultivating the Teamsters as a constituency.

Noting that IBT President Ron Carey also was seeking re-election in 1996, the memorandum stated:

The teamsters played an enormous role in the '92 campaign. They spent upwards of \$2.4 million in contributions to our state coordinated campaigns, the DNC, the Clinton campaign, DCCC/DSCC and congressional candidates. They successfully educated and mobilized several hundred thousand of their members for the election and in many cases, local leaders and staff across the country worked full-time in the campaign.

...When they are plugged in and energized they can be a huge asset. Over the past two years their enthusiasm has died down. They have been almost invisible at the DNC and other party committees for the past two years...we are in a good position to rekindle the Teamster leadership's enthusiasm for the Administration, but they have some parochial issues that we need to work on.

...It is in our best interest to develop a better relationship with Carey...Carey is not a schmoozer – he wants results on issues he cares about. The Diamond Walnut strike and the organizing effort at Pony Express are two of Carey's biggest problems. We should assist in any way possible.⁷¹⁴

⁷¹¹ “Teamster Notes.” Exhibit 193.

⁷¹² Deposition of Steve Rosenthal, September 9, 1998 at 66.

⁷¹³ Id. at 51.

⁷¹⁴ Exhibit 193.

This memo almost certainly made its way to Deputy White House Chief of Staff Harold Ickes whose handwriting is found on the document in several different places.⁷¹⁵ It is not known how or why Ickes received a copy of the memo.⁷¹⁶ For his part, Rosenthal stated that the target audience for this memo was the White House.⁷¹⁷ Rosenthal felt that it was important for the White House to understand the “political relevance of individuals and institutions that make up those political organizations.”⁷¹⁸

This “political relevance,” according to Rosenthal, included the political contributions made by the Teamsters to Democratic causes.⁷¹⁹ When asked why he included in the memo information about IBT political contributions to the 1992 elections, Mr. Rosenthal said he “used language that any political institution and any political – any administration, previous administrations or the current administration, would be able to get a fuller basis for making decisions about which issues to consider moving to the front burner in the barrage of things that come at them every single day.”⁷²⁰ Notwithstanding Mr. Rosenthal’s subsequent attempt to characterize the memo as an innocuous, academic discussion of labor policy, the Clinton Administration did assist the IBT with its parochial issues and the IBT’s enthusiasm was rekindled accordingly.

Harold Ickes Helps the Teamsters

On March 1, 1995, Mr. Ickes and Doug Sosnik, White House Director of Political Affairs, met at the White House with Judy Scott, then-IBT general counsel, Bill Hamilton,

⁷¹⁵ O&I Hearing, October 6, 1998, at 129 (publication forthcoming).

⁷¹⁶ Ickes Depo. at 122.

⁷¹⁷ Rosenthal Depo. at 70.

⁷¹⁸ Id. at 53.

⁷¹⁹ Id. at 52.

then-IBT Director of Government Affairs, and Ronald Carver, the IBT official responsible for drumming up support for the Diamond Walnut strikers.⁷²¹ As previously noted in this report, Mr. Sosnik had served in 1992 on the IBT working group that revamped the union’s political action efforts.⁷²² During the 1995 White House meeting, Mr. Carver briefed Mr. Ickes and Mr. Sosnik on the background of the strike and the IBT’s concerns about the government assistance that Diamond Walnut was receiving.⁷²³ According to testimony he gave before the Subcommittee, Mr. Carver believes that he raised the issue of the USTR’s assistance to Diamond Walnut with Mr. Ickes during this meeting⁷²⁴ and asked Mr. Ickes for help.⁷²⁵

Following that meeting, Mr. Ickes sent a memorandum regarding the Diamond Walnut strike to Mickey Kantor, then the USTR.⁷²⁶ In the memo, Mr. Ickes requested a meeting “at your earliest possible convenience to discuss this situation.”⁷²⁷ Mr. Ickes attached three documents to the memo, including a “Background on the Diamond Walnut Strike.”⁷²⁸ That attachment argued that “a company’s labor practices should be considered before it is offered government assistance in expanding its foreign markets. Diamond should receive no further assistance – financial or otherwise – from U.S.

⁷²⁰ Id. at 73.

⁷²¹ Carver Depo. at 18. See, also, Scott Depo. at 188.

⁷²² Exhibit 120.

⁷²³ Carver Depo. at 19.

⁷²⁴ Id. at 24.

⁷²⁵ O&I Hearing, October 6, 1998, at 57 (publication forthcoming).

⁷²⁶ Memorandum from Harold Ickes to Ambassador Mickey Kantor, March 6, 1995. Exhibit 194.

⁷²⁷ Id.

⁷²⁸ Id.

agencies until it negotiates and [sic] end to the strike.”⁷²⁹ Mr. Carver acknowledged that he most likely had a hand in writing this document.⁷³⁰

Kantor received a similar message a short time later. A March 22, 1995 memorandum from the head of the European section of the USTR’s office, Chris Marcich, to Ambassador Kantor notes that the “Teamsters have been pressing the Administration...to support them in their fight against” Diamond Walnut.⁷³¹ The memorandum also states that the IBT “would like USTR to indicate that we will not pursue our rights on walnuts in the soon-to-begin US-EU [European Union] negotiations,”⁷³² and notes further that the walnut issue, “while not insignificant, would certainly not appear to rank at the top of our priorities.”⁷³³ One possible reading of the memo is that the USTR could drop the issue without harming American interests. At the time, exports – particularly to some European nations – were “very important” to Diamond Walnut.⁷³⁴ Ambassador Kantor could not recall what actions, if any, were taken pursuant to the IBT’s request.⁷³⁵

On March 24, 1995, Ambassador Kantor was scheduled to meet with Mr. Ickes at USTR headquarters.⁷³⁶ When he testified before the Subcommittee, however, Ambassador Kantor could not recall whether he met Ickes face-to-face or whether he spoke with him over the phone.⁷³⁷ According to Ambassador Kantor, Mr. Ickes advised

⁷²⁹

Id.

⁷³⁰

Carver Depo. at 34-37.

⁷³¹

Memorandum from Chris Marcich to Ambassador Michael Kantor, March 22, 1995. Exhibit

195.

⁷³²

Id.

⁷³³

Id.

⁷³⁴

O&I Hearing, October 6, 1998, at 96 (publication forthcoming).

⁷³⁵

Id. at 17.

⁷³⁶

Schedule for Ambassador Michael Kantor, March 24, 1995. Exhibit 196.

⁷³⁷

O&I Hearing, October 6, 1998, at 15 (publication forthcoming).

him of the Teamsters' strike and asked "if I could make a call and determine two things: one, the status [of the strike]; and two, the prospects for settlement."⁷³⁸ The Subcommittee notes Ambassador Kantor's chief of staff had a somewhat different view of the reason behind the telephone call. According to a contemporaneous electronic inter-office message, the aide said that Ambassador Kantor "told Ickes that he would call the Diamond Walnut folks and put some pressure on them vis-à-vis the strike."⁷³⁹

Ambassador Kantor's reaction to Mr. Ickes' request was, at first, surprise, then, resignation.⁷⁴⁰ Ambassador Kantor testified he told Mr. Ickes that he did not believe that he would be the best person in the Administration to get involved in the strike. Specifically, the Ambassador recalled that he "asked Mr. Ickes 'why me?' I thought the Secretary of Labor or Secretary of Agriculture would be a much more appropriate person to ask, since they probably knew much more about the strike. I knew nothing about it."⁷⁴¹ Mr. Ickes apparently explained that Ambassador Kantor was a Californian who had represented farm workers in the past and, because of that, he was an appropriate person to call Diamond Walnut.⁷⁴² Mr. Kantor's experience representing farm workers consists of a brief stint as a legal aid attorney right out of law school.⁷⁴³

⁷³⁸

Id.

⁷³⁹

Electronic mail from Peter Scher to Jeff Nuechterlein, April 4, 1995. Exhibit 197.

⁷⁴⁰

O&I Hearing, October 6, 1998, at 20 (publication forthcoming).

⁷⁴¹

Id.

⁷⁴²

Id. at 12-13. Ambassador Kantor's curious reference to his distant and brief background as a legal aid lawyer raises a serious, though largely unanswerable, question. Mickey Kantor's testimony on this point offers a barely-plausible, odd explanation for why Harold Ickes would have asked him to call Diamond Walnut and check on the status of the strike and the prospects for settlement. Absent the explanation, there would be no conceivable reason for USTR Kantor to call Diamond *other than to put pressure on the company as the Teamsters requested*. It is perhaps more curious still that, when deposed by the Subcommittee, former IBT General Counsel Judy Scott testified that the IBT wanted Ambassador Kantor to call Diamond Walnut because it "knew that he had had background . . . of working with farm workers in California." Scott Depo. at 113. When pressed to reveal the source of her knowledge about Ambassador Kantor's work experience thirty years ago, Ms. Scott retreated, responding as follows:

Three days after talking to Ambassador Kantor, Mr. Ickes met with IBT President Carey, Mr. Hamilton, and representatives of the departments of Labor and Transportation. Mr. Hamilton instructed Mr. Carey to tell Mr. Ickes that “I was happy to hear that you have reached out to Mickey Kantor about the Diamond Walnut situation.”⁷⁴⁴ Talking points provided by Mr. Hamilton to Mr. Carey state that the IBT “asked the White House

Q: You said you knew that Mickey Kantor had worked in the past with farm workers in California. Is that what you said?

Ms. Scott: Yes. I don’t – I have to say I don’t know whether he worked with the farm workers. I understand that he had had dealings and experience related to farm workers in California

Q: Do you know in more detail what sort of experience Mickey Kantor had working with farm workers in California?

Ms. Scott: No.

Q: How did you learn about that?

Ms. Scott: I don’t know.

Q: Do you know when he had that experience?

Ms. Scott: I think you would have to ask him, . . .

Q: No, I’m wondering what you knew about Mr. Kantor’s experience, because you just testified you knew something about Kantor’s experience working with farm workers. What do you know?

Ms. Scott: I don’t know anything more than my general description of what I just told you.

Q: Okay. Did Harold Ickes tell you about Kantor’s experience with farm workers?

Ms. Scott: No.

Q: Did Kantor himself tell you?

Ms. Scott: No.

Id. at 113-115. Ms. Scott’s testimony about the IBT’s knowledge of Mickey Kantor’s experience as a legal aid lawyer tends to corroborate Ambassador Kantor’s testimony. However, Ms. Scott’s retreat from her initial statement coupled with her inability to recall how she learned of Mickey Kantor’s background, raises questions about the source of her knowledge on that obscure issue.

⁷⁴³ Interview of Mickey Kantor, September 16, 1998.

to...pressure the Sun Diamond and Diamond Walnut leadership to settle the strike there.”⁷⁴⁵ According to the talking points, Mr. Carey was to ask Mr. Ickes to have the White House “reach out to Mickey Kantor to urge him to stop promoting U.S. walnuts overseas until Diamond Walnut reaches an understanding with its employees...[and to] help us identify other government agencies that can be helpful in resolving this situation.”⁷⁴⁶ The talking points note Mr. Carey’s understanding that Mr. Ickes had “taken this first step” of reaching out to Ambassador Kantor.⁷⁴⁷

Later that same day, Mr. Hamilton drafted an internal IBT memo noting that “Ickes said he met face-to-face with USTR Mickey Kantor last week and that Kantor agreed to use his discretionary authority to try to convince the CEO of that company that they should settle the dispute.”⁷⁴⁸

Also on March 27th, Mr. Ickes sent a memorandum about Diamond Walnut to Ambassador Kantor. The subject line read, “Sun Diamond in California – Teamsters Strike?” The memo stated in part, “I appreciate your taking the time to meet with me the other day about the above referenced matter and trust you will follow up.”⁷⁴⁹ Mr. Ickes attached to the memo a copy of a letter written by Mr. Tony Podesta, a lobbyist hired by the IBT to work on issues concerning Diamond Walnut, asking why the USTR was “helping” Diamond Walnut “at Teamsters’ expense?”⁷⁵⁰

⁷⁴⁴ Memorandum from Bill Hamilton to Ron Carey, March 27, 1995, Exhibit 198.

⁷⁴⁵ Id.

⁷⁴⁶ Id.

⁷⁴⁷ Id.

⁷⁴⁸ Memorandum from Bill Hamilton to Aaron Belk, et.al., March 27, 1995. Exhibit 199.

⁷⁴⁹ Memorandum from Harold Ickes to Ambassador Mickey Kantor, March 27, 1995. Exhibit 200.

⁷⁵⁰ Memorandum from Tony Podesta to Harold Ickes and Doug Sosnik, March 13, 1995. Exhibit 201.

Having talked to Ambassador Kantor at least once and written him twice in the span of three weeks, Mr. Ickes asked his assistant, Jennifer O'Connor, to follow up with the USTR's office. Ms. O'Connor did so through multiple telephone calls to Ambassador Kantor's Chief of Staff, Peter Scher, and by sending an electronic message of her own, asking a White House aide to have Mr. Ickes "ask Kantor if he has called the Diamond Walnut people yet."⁷⁵¹ Ms. O'Connor explained that Mr. Ickes asked Ambassador Kantor to make the telephone call "a month ago and I have been bugging his staff but they just keep telling me he's been trading calls with them [Diamond Walnut]."⁷⁵² Ms. O'Connor stated in her testimony before the Subcommittee that "the first time I spoke with him [Peter Scher], he said something to the effect that they had checked with counsel or somebody to make sure Mr. Kantor could make the call and that that was affirmative, he could make the call, although he couldn't say very much. And that he would make it, but he hadn't made it yet."⁷⁵³

Sometime during April 1995, Ambassador Kantor telephoned William Cuff, who at the time was Diamond Walnut's president and chief executive officer. Mr. Cuff testified that Ambassador Kantor began by saying that he "wanted to see if there was anything that he could do to try to resolve" the strike, and to "understand what were the unresolved issues."⁷⁵⁴ However, Mr. Cuff said that Ambassador Kantor raised other issues as well:

I remember during the conversation that Mr. Kantor mentioned that in trade negotiations around the world, that the United States was always concerned about human rights, that that came up often related to trade considerations.

⁷⁵¹ Electronic mail from Jennifer O'Connor to Janice Enright, April 19, 1995. Exhibit 202.

⁷⁵² Id.

⁷⁵³ O&I Hearing, October 6, 1998, at 132 (publication forthcoming).

⁷⁵⁴ Id. at 99.

...I recall his saying something to the effect that either it [the Teamsters' strike] had come up from foreign leaders that he had met with and that therefore, it could be potentially one of those embarrassing or difficult kinds of situations that could interfere with trade negotiations.⁷⁵⁵

Mr. Cuff's testimony is endorsed by contemporaneous corporate records, which show that he "received a call from Michael (Mickey) Kantor, U.S. Trade Representative urging Diamond to resolve its labor dispute because it was interfering with international trade issues."⁷⁵⁶

Both participants to the conversation agree that Ambassador Kantor never threatened the company if it did not settle the strike, and that the USTR never exerted explicit pressure on Diamond Walnut to end the dispute.⁷⁵⁷ Mr. Kantor conceded that pressure is "in the eyes of the beholder."⁷⁵⁸ Mr. Cuff noted "that when you get a call from...a senior official of the administration, you always have to be concerned,"⁷⁵⁹ and said the Kantor telephone call apparently "was part of the ongoing significant effort by the union to try to bring us to our knees."⁷⁶⁰

The Subcommittee notes that Ambassador Kantor acknowledged that the telephone call was unusual. For example, the USTR admitted that he was not aware of the strike until he was told about it by Harold Ickes,⁷⁶¹ and that he had not researched the issues before telephoning Mr. Cuff.⁷⁶² Ambassador Kantor testified that the USTR has no

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Id.

⁷⁵⁶ Minutes of the Meeting of Board of Directors of Diamond Walnut Growers, Inc., April 25, 1995. Exhibit 203.

⁷⁵⁷ O&I Hearing, October 6, 1998, at 21, 101 (publication forthcoming).

⁷⁵⁸ Id. at 25-26.

⁷⁵⁹ Id. at 101.

⁷⁶⁰ Id. at 102.

⁷⁶¹ Id. at 11.

⁷⁶² Id. at 24.

line authority over a labor dispute; that role is reserved to the Department of Labor.⁷⁶³

Furthermore, Ambassador Kantor stated that while it was a normal part of his job to contact leaders of various companies to discuss market openings,⁷⁶⁴ he could not recall a time he had called a small company the size of Diamond Walnut concerning an employment matter.⁷⁶⁵

Ambassador Kantor could not recall talking with any other representatives of Diamond Walnut or a related cooperative, Sun Diamond.⁷⁶⁶ At least one witness disputes that account. The witness states that Ambassador Kantor approached Sun Diamond's lobbyist, Richard Douglas, at an event at the White House, and raised the issue of the strike.⁷⁶⁷

Department of Labor Pressure

Evidence developed by the Subcommittee shows that other federal agencies also might have attempted to persuade Diamond Walnut to settle the Teamsters' strike. The first agency to get involved was the U.S. Department of Labor.

During 1993, Secretary of Labor Robert Reich assigned the head of the Department's Women's Bureau, Karen Nussbaum, to investigate the strike.⁷⁶⁸ Her report [hereinafter referred to as the "Nussbaum Report"], issued in November of 1993, was

⁷⁶³ *Id.* at 13.

⁷⁶⁴ *Id.* at 40.

⁷⁶⁵ *Id.* at 49.

⁷⁶⁶ *Id.* at 28.

⁷⁶⁷ Telephone Interview of Dan Haley, September 22, 1998. *See*, Exhibit 2.

⁷⁶⁸ *The Labor Management Conflict at Diamond Walnut*, A Report to Secretary Robert Reich by Karen Nussbaum, Director, Department of Labor Women's Bureau, undated [Hereinafter referred to as "Nussbaum Report"]. Exhibit 204.

highly critical of Diamond Walnut and sympathetic to the union.⁷⁶⁹ Ms. Nussbaum's report concluded that the Clinton Administration "should take all possible and reasonable steps to bring Diamond Walnut and the Teamsters back to the table to hammer out an agreement and return the strikers to work."⁷⁷⁰ Ms. Nussbaum, who currently heads the women's department within the AFL-CIO, recommended that Secretary Reich "call both sides to a meeting in Washington...to develop a mediation process."⁷⁷¹ She also suggested that the DOL attempt to jump-start the mediation process by initiating "a community impact study to assess the consequences of the Diamond Walnut strike...on the community and the region."⁷⁷²

Diamond Walnut filed "strenuous objections to the report."⁷⁷³ Writing for the company to Labor Secretary Robert Reich, Mr. Cuff said the firm was:

very disturbed about the role your department appears to have taken in supporting the Teamsters campaign against the cooperative and its growers. This campaign is designed to apply pressure on our company outside the traditional collective bargaining process, and your agency appears to have willingly participated in it through such actions as Nussbaum's highly publicized visit to Stockton.⁷⁷⁴

⁷⁶⁹ O&I Hearing, October 6, 1998, at 93 (publication forthcoming). Nussbaum Report at 16: "The Diamond Walnut struggle, now more than two years old, illustrates many of the traits that have been all too common in labor-management relations. A long history of amicable bargaining is disrupted. Cooperative team efforts to make the company more profitable and efficient backfire on the workers who participate. The push toward high performance becomes linked with a reduction in wages. The use of permanent striker replacements permanently displaces a committed, long-term workforce and robs them of a lifetime of accumulated benefits."

⁷⁷⁰ Id. at 17.

⁷⁷¹ Id. at 5.

⁷⁷² Id.

⁷⁷³ Letter from William Cuff to Secretary Reich, November 12, 1993. Exhibit 205.

⁷⁷⁴ Id.

Secretary Reich responded by mentioning that the Federal Mediation and Conciliation Service had offered its assistance to Diamond Walnut and the Teamsters.⁷⁷⁵ Secretary Reich did not address allegations that Ms. Nussbaum's report was part of the campaign to pressure Diamond Walnut to settle the strike.⁷⁷⁶ Mr. Cuff agreed to that offer,⁷⁷⁷ but the talks did not produce a settlement.⁷⁷⁸

That correspondence was the extent of the DOL's involvement in the strike, until Mr. Ickes and the USTR became interested in the dispute. During 1995, the Department of Labor assisted the White House in formulating an executive order that barred the Federal government from contracting with companies that hired replacement workers.⁷⁷⁹ On March 8, 1995, President Clinton issued Executive Order 12954 which would have allowed the Secretary of Labor to debar companies that hired replacement workers. On April 21, 1995, the IBT filed a complaint with the Department requesting the debarment of Diamond Walnut.⁷⁸⁰ An attachment to this request outlined the grounds for the complaint and was signed by Ms. Scott, then the IBT's General Counsel.⁷⁸¹ The attachment refers to the Nussbaum report in a section entitled "Basis for Debarment."⁷⁸²

An undated Department of Labor memorandum indicates that the Department was considering whether Diamond Walnut would be a suitable target of the Executive Order. The memo discusses the timing of the strike and the publicity surrounding the Nussbaum

⁷⁷⁵ Letter from Sec. Robert Reich to William Cuff, February 22, 1994. Exhibit 206.

⁷⁷⁶ Telephone Interview of Robert Reich, September 20, 1998. In that interview Sec. Reich stated that he had no memory of the Diamond Walnut strike but was certain that he did not do anything on the matter.

⁷⁷⁷ Letter from William Cuff to Sec. Robert Reich, March 9, 1994. Exhibit 207.

⁷⁷⁸ Interview with William Cuff, September 24, 1998.

⁷⁷⁹ See, Executive Order #12954, 29 CFR Ch. II, pt. 270.

⁷⁸⁰ Letter from Ron Carey to Sec. Robert Reich, April 21, 1995. Exhibit 208.

⁷⁸¹ Id.

⁷⁸² Id.

report, concluding that, because the Nussbaum report stirred up “some controversy,”⁷⁸³ “there may be some questions as to whether to rehash this event by targeting DWG [Diamond Walnut].”⁷⁸⁴ The memo also states that “Judy Scott, counsel for the Teamsters is very willing to assist in any [of] the pre-investigation work.”⁷⁸⁵

The investigative process surrounding the complaint by the IBT moved at a quick pace. After the initial complaint by the IBT on April 21, 1995, the Department of Labor notified Diamond Walnut of its investigation on June 9, 1995.⁷⁸⁶ By July 28, 1995 the Department of Labor had proposed the debarment of Diamond Walnut.⁷⁸⁷ The debarment was averted only by a broad legal challenge to the Executive Order filed in the District of Columbia.⁷⁸⁸ The United States Court of Appeals for the D.C. Circuit found that the executive order was preempted by the National Labor Relations Act provision guaranteeing management’s right to hire permanent replacements during labor strikes.⁷⁸⁹

Agriculture Department Investigations

One of the first federal agencies from which the IBT tried to obtain assistance was the Department of Agriculture, which oversees the School Lunch Program and the Marketing Promotion Program (“MPP”), the latter designed to assist U.S. companies in marketing products overseas. Diamond Walnut participates in both initiatives.

⁷⁸³ Memorandum from Matthew P. Levin to Oliver B. Quinn. Exhibit 209.

⁷⁸⁴ Id.

⁷⁸⁵ Id.

⁷⁸⁶ Letter from Charles A. Richards to William Cuff, June 9, 1995. Exhibit 210.

⁷⁸⁷ Letter from Charles L. Smith to Robert Hutleng, July 28, 1995. Exhibit 211.

⁷⁸⁸ Chamber of Commerce of the United States v. Reich, 897 F. Supp. 570 (D.D.C. 1995), *denying motion to vacate*, 1995 WL 611645 (D.D.C. 1995), *rev’d*, 74 F.3d 1322, (DC Cir. 1996).

⁷⁸⁹ Chamber of Commerce of the United States v. Reich, 74 F.3d 1322, 1332 (DC Cir. 1996). The Department continued to investigate Diamond Walnut even after the failure of the striker replacement

By a letter dated June 9, 1993, Mr. Carey sought a meeting with Michael Espy, then the Agriculture Secretary, to discuss Diamond Walnut and the MPP.⁷⁹⁰ IBT officials wanted to convey “that it is important for government officials administering programs such as this to know about and understand the unfortunate dark side of the Diamond Walnut operation.”⁷⁹¹ Secretary Espy declined to meet with the IBT.⁷⁹²

Three months later, on September 21, 1993, Mr. Carey again requested a meeting with Secretary Espy.⁷⁹³ Once again, Mr. Espy declined to meet with Mr. Carey.⁷⁹⁴ Within a fortnight, Mr. Carey wrote to Secretary Espy for a third time, urging him “to use any influence possible to request that Diamond Walnut, Inc. return to the bargaining table so that an equitable and just conclusion can be brought to this dispute.”⁷⁹⁵ No such meeting took place.⁷⁹⁶ Secretary Espy subsequently resigned for unrelated reasons.

Mr. Carey and Mr. Carver did meet with Agriculture Secretary Dan Glickman two years later, during June 1995. Notes of the meeting produced to the Subcommittee by the Agriculture Department indicate that representatives of the IBT spoke on several occasions with Deputy Secretary Richard Rominger about Diamond Walnut participation in the MPP.⁷⁹⁷ Mr. Rominger’s handwritten notes also show that he had talked with Mr. Cuff and Sun-Diamond’s lobbyist, Richard Douglas, concerning the issue.⁷⁹⁸ During his

executive order through such means as compliance reviews by the district office in California. Letter from Edgar Collins to William Cuff, October 12, 1995. Exhibit 212.

⁷⁹⁰ Carver Depo. at 30-34.

⁷⁹¹ Letter from Ron Carey to Sec. Espy, June 9, 1993. Exhibit 213.

⁷⁹² Carver Depo. at 64.

⁷⁹³ Letter from Ron Carey to Sec. Espy, September 21, 1993. Exhibit 214.

⁷⁹⁴ Carver Depo. at 64.

⁷⁹⁵ Letter from Ron Carey to Sec. Espy, October 6, 1993. Exhibit 215.

⁷⁹⁶ Carver Depo. at 64.

⁷⁹⁷ Id.

⁷⁹⁸ Id.

conversations, Mr. Carver lobbied Deputy Secretary Rominger for the exclusion of Diamond Walnut from the MPP.⁷⁹⁹ This effort was unsuccessful.

Tony Podesta, whom the IBT hired to lobby on issues concerning Diamond Walnut, also attempted to lobby the Department of Agriculture, the USTR, and members of Congress concerning the strike, the MPP, and the USTR's other activities that benefited Diamond Walnut. Billing records subpoenaed by the Subcommittee indicate that Mr. Podesta met with staff members from the USTR's office as early as February 1995 and continued contact with the USTR's office at least through June 1995.⁸⁰⁰ Podesta contacted Peter Scher, Ambassador Kantor's Chief of Staff, on several occasions. Among other things, Mr. Podesta wrote a June 19, 1995 memorandum to Mr. Scher identifying international trade-related issues under the USTR's purview which were of importance to Sun-Diamond.⁸⁰¹ In this memo Mr. Podesta stated that "any additional pressure you can put on Sun-Diamond would be very helpful."⁸⁰² It seems likely that the adjective "additional" was used because Mr. Podesta was aware of Ambassador Kantor's call to Mr. Cuff. The Subcommittee is not aware of any other pressure the USTR brought to bear on Diamond Walnut.

Mr. Podesta also lobbied Members of Congress on the strike. In a memo to the IBT, he outlined a two-prong strategy for applying pressure on Diamond Walnut, focusing attention on programs run by the Department of Agriculture and the USTR that assisted walnut growers in general and Diamond Walnut in particular.⁸⁰³ The memo lists

⁷⁹⁹ Carver Depo. at 63-64.

⁸⁰⁰ Podesta Associates Invoice #1335 to the IBT, March 9, 1995. Exhibit 216.

⁸⁰¹ Memorandum from Tony Podesta to Peter Scher, June 19, 1995. Exhibit 217.

⁸⁰² Id.

⁸⁰³ Memorandum from Tony Podesta, February 10, 1995. Exhibit 218.

Republican and Democratic members of the Senate Agriculture and Finance Committees and Democratic members of the House Ways and Means and Agriculture Committees, and highlights in bold type the Senators facing reelection in 1996. In addition, the memo states, “we need to press the White House, the DNC, and the Congress to pressure USTR and USDA to stop doing favors for the California Walnut Commission.”⁸⁰⁴ It is interesting to note that the IBT’s political action committee made contributions of over \$100,000 to Democratic members listed on the memo, while making only \$200 in contributions to Republican members on the memo during the 1995-96 election cycle.⁸⁰⁵

3. Conclusions

By all indications, the Administration attempted to assist the IBT in its strike with Diamond Walnut. The issue of this regional strike involving six hundred seasonal workers ended up surfacing at high level meetings with several cabinet officials, including the Secretary of Agriculture, the United States Trade Representative and the Secretary of Labor.

The Subcommittee’s investigation casts a long shadow of doubt on Mr. Ickes’s statement, under oath, that he did not know of anything the White House did regarding the Diamond Walnut strike. The following points summarize the Subcommittee’s findings:

- The clear implication from the information developed by the Subcommittee is that Harold Ickes was intimately familiar with the basic circumstances behind Mickey Kantor’s call to Diamond Walnut when he was deposed last fall.

⁸⁰⁴ Id.

⁸⁰⁵ Federal Election Commission, *Contributions 1995-96, Democratic Republican Independent Voter Education Committee*, <<http://www.tray.com>>.

- It seems very unlikely that Harold Ickes could have forgotten entirely about his memos to Ambassador Kantor, his meeting in Kantor’s office, his subsequent meeting with Teamsters officials, his request to his assistant to follow up with Kantor’s office, and the Ambassador’s subsequent conversation with him about the call.
- *The Department of Justice Manual* specifically addresses what it labels “The ‘I Don’t Remember’ Syndrome.” It explains that a witness who claims he cannot remember a fact can be prosecuted for perjury if it can be shown that, at one point, he knew the fact, and when he testified, he must have remembered it.⁸⁰⁶ Mr. Ickes’ testimony before the Senate campaign finance inquiry raises serious questions and should have been investigated further in the context of the Justice Department’s own guidelines.
- These are the sorts of “reasonable grounds” that warranted further investigation by an independent counsel.

It appears that, in addition to Ambassador Kantor’s phone call, other federal agency officials may have attempted to assist the Teamsters with the Diamond Walnut strike. William Cuff believed that was the case, as is evident from the following testimony he gave before the Subcommittee:

Rep. Schaffer: Was there some objective that you felt the Federal Government was trying to achieve with respect to your company?

Mr. Cuff: Yes, I think all the ones that I have referred to were probably trying to find something wrong that could be used in PR to make us look like we are some kind of bad company.⁸⁰⁷

Certainly, what Mr. Cuff sensed was occurring was precisely the sort of assistance the Teamsters were seeking.

C. Teamsters’ Interference in State Elections: The Kentucky Example

⁸⁰⁶ 9A Aspen Law & Business, *The Department of Justice Manual* § 9-69.264 (1997-1 Supp.).
⁸⁰⁷ O&I Hearing, October 6, 1998, at 121 (publication forthcoming).

Kentucky, along with Mississippi and Louisiana, held gubernatorial elections in the fall of 1995. Of these races, only Kentucky's race was considered highly competitive. The International Brotherhood of Teamsters spent at least \$60,000, and possibly much more, in attempts to coordinate and finance the operations of local unions and a joint council in support of the Democratic nominee for governor, Paul Patton. The Kentucky Attorney General's office conducted an investigation and obtained the indictments of two Teamsters and two members of the Governor's staff concerning the gubernatorial campaign. Its investigation, however, never focused on the activities of IBT staff members in Washington, D.C., and their attempts to assist IBT local officers. The Subcommittee has uncovered further evidence highlighting the involvement and coordination efforts of IBT headquarters in the campaign. These allegations are consistent with other IBT efforts to assist particular candidates through possibly illegal coordination expenditures. The Subcommittee continues to investigate these possibly illegal acts.

Indictments Issued in Kentucky – Background Information

On September 24, 1998, a Kentucky grand jury unsealed four felony indictments against two employees of Governor Paul Patton and two members of Teamsters Local 89. Andrew J. Martin and Daniel Ross worked for Governor Patton during the 1995 election and had previously worked for Mr. Patton while he served as Lieutenant Governor. Mr. Martin became Patton's chief of staff soon after Patton became Governor. Mr. Ross served as labor liaison for the 1995 campaign and worked in a similar position when Patton became governor. The two indicted Teamsters were Lon Fields Sr., president of Local 89, and Robert M. Winstead, the local's secretary-treasurer. The Kentucky

Attorney General's office indicted these individuals for allegedly violating Kentucky's campaign finance rules and conspiring to exceed the limits on contributions created by the aforementioned rules.⁸⁰⁸

An investigation had begun years earlier, after Mr. Lawrence Forgy, the Republican candidate for Governor, alleged that organized labor had "bought votes all over Kentucky."⁸⁰⁹ Mr. Forgy's claim was further bolstered by Teamster Local 783 Secretary-Treasurer Jerry Vincent, who stated at a meeting of labor leaders and then Governor-elect Patton, that organized labor had spent \$50,000 and "bought the election."⁸¹⁰ Governor Patton initiated a probe of these allegations in March 1996. The state's investigation focused on the unions' efforts to elect Mr. Patton through massive voter turnout drives in Kentucky's African-American communities.

Governor Patton ordered state police to work under Attorney General Ben Chandler, an independently elected Democrat, after the police's independence from Patton

⁸⁰⁸ See, KY. REV. STAT. 121.150(1), KY. REV. STAT. 121.015(10), and KY. REV. STAT. 121.990(1994). Kentucky's state election rules are distinct from campaign laws in most other jurisdictions. In 1992 the Kentucky General Assembly offered state subsidies to gubernatorial candidates who agreed to limit their campaign spending in exchange for their agreement to follow a restrictive set of rules. These laws were created to discourage campaigns from circumventing the previous campaign expenditure limits. However, as with any new law, candidates were quick to try to circumvent it, and once prosecuted, were even quicker to claim these laws to be an unconstitutional speech and association restriction.

The law defined an independent expenditure as one made without "any direct or indirect cooperation, consent, request, suggestion, or consultation involving a candidate . . . or agent." It added that no campaign "nor anyone acting on their behalf shall have any communication with another person nor anyone on his behalf regarding that person's making of an independent expenditure on behalf of the candidate." Partly because some officials thought the definition was unconstitutionally broad, the 1996 General Assembly removed the ban on certain communications and the references to "indirect" activity and "consent, request, or suggestion." The old definition still applies to activity that occurred, as in the case at bar, when it was in effect.

⁸⁰⁹ Al Cross, *Patton Aides, Union Leaders Indicted; Report States 4 Broke Campaign Rules*, Louisville Courier-Journal, September 25, 1998, at 1A.

⁸¹⁰ Interview of Jerry Vincent, 11/6/98.

came into question.⁸¹¹ A Bill of Particulars was filed in November 1998. It appears unlikely that the defendants will go to trial in the near future, as several appellate issues remain that must be settled before the case can go to a jury.

Involvement of the International Brotherhood of Teamsters

Under Kentucky law, candidates accepting government funds may not coordinate certain types of campaign activities with outside groups. The Bill of Particulars in the case alleged that the IBT spent over \$60,000 in support of the Patton Campaign, in violation of state law. These expenditures included the purchase of signs, buttons and banners in support of the Patton campaign and the payment by the IBT and the local union of the salary of Danny Ross.

Early in the Kentucky Election Registry investigation, IBT headquarters officials became aware of potential legal problems involving the 1995 election. IBT headquarters then began an effort to ensure that all of the Teamsters' entities were "on the same page,"⁸¹² when dealing with this issue. In a memo to then-IBT General Counsel Judy Scott, Bill Hamilton discussed the employment of Mr. Ross and the IBT's attempts to respond to any complaints flowing from the 1995 elections.⁸¹³ Other evidence obtained by the Subcommittee indicates that Mr. Hamilton coordinated campaign efforts of the local union and joint council as well as their budgetary and hiring policies, a possible violation of Kentucky election law.

⁸¹¹ See, Cross, Louisville Courier-Journal, September 25, 1998.

⁸¹² Memorandum from Bill Hamilton to Judy Scott, Betty Grdina, March 21, 1996. Exhibit 219.

⁸¹³ Id.

The Subcommittee continues to investigate the extent of the IBT's involvement in the 1995 elections. This investigation includes an examination of allegations that the IBT, through its political action committee, coordinated and financed the operations of the local union and the Kentucky Joint Council in assisting the Patton campaign.

CHAPTER IX:
CONCLUSIONS AND RECOMMENDATIONS

The Subcommittee has drawn a number of conclusions based on its investigation, and has developed recommendations, some of which would require legislation. Because the Subcommittee on Oversight and Investigations has no legislative jurisdiction, it will refer any recommendations that involve legislative proposals to the House Committee on Education and the Workforce. The following section summarizes the Subcommittee's conclusions and recommendations, many of which were discussed in previous chapters.

Ethical Practices

The Subcommittee concludes that the Carey Administration used the Ethical Practices Committee, in part, to investigate and punish political enemies. In addition, the Subcommittee concludes that the structure of the EPC, especially when combined with the absence of an IBT code of ethical conduct, lends itself to similar abuses in the future.

As a result, the Subcommittee makes the following recommendations:

- That the IBT adopt a code of ethical conduct; and
- That any ethics code become part of the IBT Constitution and be incorporated into the Consent Order.

International Trustees

The Subcommittee concludes that actions taken by the Carey Administration to hinder meaningful financial oversight by the International Trustees contributed to the

union's loss in net worth and indirectly led to the contribution swap scandals. As a result, the Subcommittee recommends that:

- The IBT Constitution be amended to grant Trustees the right to review all financial records and attend all GEB meetings.
- As part of its ethical standards, the IBT should include language stating that any member or official who interferes with the Trustees during the exercise of their duties, or refuses to provide them with relevant and proper information, shall be disciplined.

Financial Controls

The Subcommittee finds that the GEB received reports from numerous quarters – including the Independent Administrator and management consultants hired to work with Mr. Carey's 1991 transition team – informing them that the IBT did not have adequate financial controls. Although these reports contained specific recommendations, the GEB did not make any substantive changes. The Subcommittee concludes that the GEB's failure to correct identified financial reporting deficiencies contributed to the near-insolvency of the union and to the improper payments made out of the union's treasury to assist Mr. Carey's re-election campaign in 1996.

The Subcommittee strongly recommends that the IBT create and use a budget and a comprehensive policies and procedures manual. The Subcommittee also recommends that:

- The IBT establish an office of inspector general, empowered to audit all IBT books and implement policies designed to prevent and detect fraud, waste and abuse.
- Consolidate all IBT audit activities under the IG.

Reporting on U.S. Labor Department Forms

The Subcommittee finds that the IBT did not fully disclose to rank-and-file members, the U.S. Department of Labor, or the general public all of the benefits and reimbursements paid to its employees and officials. The limited disclosures are primarily the result of inadequacies in the current reporting system in place at the DOL. The Subcommittee recommends that the Department of Labor consider changing regulations to require full and fair disclosure of significant financial matters, including:

- Full disclosure of all benefits paid to each officer and employee.
- Full disclosure of all travel-related expenses by union officers and employees, regardless of whether those costs were paid through credit arrangements.
- Full disclosure of all spending by category.

In addition, the Subcommittee recommends that Congress consider legislation that would make the following changes, all of which are designed to make it easier for union members to gain access to understandable financial information:

- Enable union members to obtain documents to verify on Labor Organization Annual Reports without filing suit in federal court and having to prove they have “just cause” to financial information.
- Require unions to use accrual accounting methods on Labor Organization Annual Reports. Ideally, unions should use the same method for all government forms and reports.

Corruption During 1996 Teamsters’ Election

The Subcommittee finds that the election rules violations and misuse of IBT treasury funds alleged in the Nash Memo have not been fully investigated by the Election

Officer. Although there has recently been a rerun of the 1996 election and a newly elected Teamsters president, the rank-and-file members of the union deserve to know whether IBT officials violated the election rules as well as their fiduciary duties. Further investigation of these allegations is needed.

Role of IBT Outside Auditor

The Subcommittee finds that Grant Thornton, the IBT's auditor, failed to make adequate inquiries into at least one IBT memorandum regarding political action contributions that may have been inappropriate or illegal. Had Grant Thornton investigated the memo(s) in question, the auditors might have uncovered the series of transactions known as the "contribution swaps" – potentially saving the members of the IBT the costs of this embezzlement and saving taxpayers the cost of further government oversight and investigation. Regardless, Grant Thornton had an obligation to investigate this matter further.

Political Action

The Subcommittee concludes the following:

- From 1992 through the 1996 election cycle, the Teamsters waged a political campaign with a singular focus: to cultivate a strong, symbiotic relationship with the Clinton Administration and, more generally, the Democratic Party.
- The IBT coordinated the union's political efforts with other labor unions, the White House, and supposedly "independent" non-profit organizations.
- IBT leadership appears to have linked political contributions to assistance from the politicians it supported.

- In addition to millions of dollars in direct political contributions made from DRIVE, IBT leaders appear to have tapped general treasury funds for \$18 million more, which they spent in support of Democratic political candidates through tax-exempt organizations that conducted get-out-the-vote and issue advocacy activities; these contributions *had the intended effect* of assisting Democratic candidates. Such contributions may have violated the Federal Election Campaign Act of 1974.
- The IBT's political action efforts contributed to the union's near-bankruptcy.
- The Teamsters' political agenda led to the contribution swap schemes that corrupted the union's 1996 elections.

The Clinton Administration's Assistance to the IBT

The Subcommittee finds that the Clinton Administration attempted to assist the Teamsters in its strike against Diamond Walnut Growers, Inc. at a time when the Administration was seeking to cultivate contributions from the union. Former Deputy White House Chief of Staff Harold Ickes, who was behind many of these efforts, apparently misled Senate investigators when deposed by them in September 1997. Based upon the wealth of information it has developed on this matter, the Subcommittee concludes that an independent counsel should have been appointed to investigate the matter further.

Union Governance

During the last several years, the IBT and the AFL-CIO have been in the forefront of efforts to improve corporate governance. In 1997, an AFL-CIO report titled *Too Close for Comfort* addressed concerns about a lack of independence by corporate directors and made the following policy recommendations: (1) companies should adopt the Council of Institutional Investors' standard of director independence; (2) the U.S. Securities and

Exchange Commission should require full disclosure of board conflicts; and (3) the Internal Revenue Service and stock exchanges also should require independent directors.⁸¹⁴

Between 1996 and 1998, the IBT issued its own “report card” on corporate accountability and activities, publicly taking to the woodshed those businesses it deemed as the biggest failures in corporate governance.⁸¹⁵ While it is reasonable for labor unions to judge corporations and hold them accountable, union’s should hold themselves to the same standards of integrity.

Organized labor is still not free from organized crime influence and run-of-the-mill corruption. The IBT and HEREIU are operating under court-monitored consent decrees. LIUNA avoided a racketeering suit by agreeing to establish an Office of Inspector General with broad oversight powers. Recently, there have been public reports detailing systematic corruption at AFSCME’s District Council 37, a coalition of public unions that represents approximately 120,000 government workers, including hospital employees, sanitation workers, and crossing guards.⁸¹⁶ Because nearly 20 million Americans are represented by unions, the ramifications of questionable and illegal activities carried out by union leadership are great, and extend beyond those dues-paying members unfortunate enough to have union officials who misuse their funds and betray their trust.

The Subcommittee’s investigation of the IBT, the disclosures of irregular activities at other unions, and the labor’s own concerns over matters of corporate governance provides the basis for consideration of the recommendations that follow:

⁸¹⁴ AFL-CIO, *Executive Pay Watch: Too Close for Comfort*, <<http://www.aflcio.org/paywatch/club/index.htm>>.

⁸¹⁵ Suzanne Barlyn, *Management Tips from the Teamsters*, *Fortune*, April 15, 1996; Matthew Greco, *America’s Worst Directors Are Back*, *Investors Relations Business*, April 21, 1997; *Union Lists Directors In Doesn’t Like*, *Pensions & Investments*, April 20, 1998.

⁸¹⁶ See, Steven Greenhouse, *Corruption Tests Labor While It Recruits*, *New York Times*, January 3, 1998, at A-23.

1. *Consider requiring labor unions to establish effective compliance programs.*⁸¹⁷ Both domestically and internationally, compliance programs are now providing organizations with tools to prevent and detect violations of law.
2. *Consider requiring unions to have independent directors.* The 1998 AFL-CIO report focused on the need for independent corporate directors and similar IBT reports focused on poor corporate director governance. The current union governance structure does not provide for independent directors.
3. *Consider restricting or eliminating the involvement of union officials as pension plan trustees.* The IBT as well as other unions have senior officials overseeing union pension plans. Experience has shown that, as conflicts of interest arise, it is quite difficult, if not impossible, for a director or trustee with divided loyalties to act objectively. A prohibition of interlocking directorates between the union and its pension plans may be in the best interests of rank-and-file workers, unions, and taxpayers.

The investigation of the IBT's operating and financial affairs between 1992 and 1998 is not complete, as efforts by the Department of Justice and the Department of Labor continue.⁸¹⁸ The above recommendations and other proposals should be explored to see that all unions are governed more effectively and operated with the best interests of the worker in mind.

Looking Ahead

The Subcommittee firmly believes that the solutions to the IBT's problems must contemplate and work toward a union that governs itself, and not perpetuate the costly, uncomfortable and often combative relationship the union and the federal government now share while operating under the 1989 Consent Order. After nearly ten years of government oversight at the IBT, perhaps it is time for the federal government to evaluate

⁸¹⁷ The United States Sentencing Commission Guidelines Manual (11/1/95), Chapter 8, views effective compliance as an organizational commitment to adopt an effective program to prevent and detect violations of law. This means a program that has been reasonably designed, implemented, and enforced so that it generally will be effective in preventing and detecting criminal conduct. The hallmark of an effective program to prevent and detect violations of law is that the organization exercised due diligence in seeking to prevent and detect criminal conduct by its employees and other agents.

⁸¹⁸ As of February 8, 1999, the Department of Labor was conducting an audit of the IBT under the International Compliance Audit Program and two investigations of the Teamsters Affiliates Pension Plan.

the effectiveness of the Consent Order and whether there are better methods to address corruption in labor unions. At the same time, a review of current labor laws and the Department of Labor's enforcement of them might be in order. Nevertheless, many steps separate the present situation from self-governance at the IBT, and they are steps that the newly elected leadership must initiate. The Teamsters' leaders must demonstrate an unqualified willingness to be held accountable, and they must create structures to do so. The rank-and-file workers deserve nothing less.