

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :

Plaintiff, :

-against- :

Index No.
90 Civ. 5722 (CSH)

DISTRICT COUNCIL OF NEW YORK CITY :
AND VICINITY OF THE UNITED BROTHERHOOD :
OF CARPENTERS AND JOINERS OF AMERICA, :
et. al., :

Defendants. :
-----X

SECOND INTERIM REPORT OF
THE INVESTIGATIONS AND REVIEW OFFICER

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INVESTIGATIONS AND REVIEW OFFICER

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Dated: March 13, 1995
New York, New York

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**SECOND INTERIM REPORT OF
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Pursuant to paragraph 4(k) of the Consent Decree entered in the above-captioned case, the Investigations and Review Officer ("IRO") of the District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America ("District Council") is required to file periodic reports, at six-month intervals, or sooner, on his activities. This Second Interim Report sets forth the activities of the IRO from October 4, 1994 to March 13, 1995.¹

BACKGROUND

On March 4, 1994, the District Council and its president, Frederick W. Devine, and other individual defendants, entered into a Consent Decree with the Government in settlement of a civil

¹ The first report actually covered the first seven months of the IRO's term. Its filing was adjourned, with the consent of the parties and with leave of the Court, so that the sections of the report concerning the Jacob K. Javits Convention Center ("Javits Center") would include certain activities which occurred in the month of September 1994.

racketeering complaint. The Consent Decree contains an explicit and permanent injunction against racketeering activity.² All current and future officers, employees, and members of the District Council and its constituent local unions are permanently enjoined under the Consent Decree:

- a. from committing any act of racketeering activity, as defined in 18 U.S.C. § 1961;
- b. from knowingly associating with any member or associate of any La Cosa Nostra crime family or any other criminal group, or with any person prohibited from participating in union affairs and
- c. from obstructing or otherwise improperly interfering with the work of the officers described in this decree.

See Consent Decree at 3, attached hereto as Exhibit 1. Among other provisions of the Consent Decree, the parties agreed to the appointment by the Court of the IRO to "implement the terms" of the Consent Decree. Id. at 4.

PRELIMINARY STATEMENT

The Investigations and Review Officer has been vested by the Consent Decree with certain "powers, rights, and responsibilities." Id. at 5. Cognizant of my responsibilities, I have used the powers and rights vested in me as IRO to focus, during the time period covered by this Report, on the abuse of power by union officers through their control of jobs, and the immense leverage

² The parties to the Consent Decree also agreed in a prefatory paragraph that "there should be no criminal element or La Cosa Nostra corruption of any part of the United Brotherhood of Carpenters and Joiners of America ("the UBJCA"), including the District Council and its constituent local unions...." See Exhibit 1, Consent Decree at 2.

this gives them over potential insurgent opponents, and the rank and file membership at large. Even more troublesome is the relationship of job patronage and active organized crime domination of the union.

Historically, of course, one of the objectives of the labor movement has been to obtain some of management's control over the workers for itself, and -- through organization, the picket line, and collective bargaining agreements -- to transform this power into economic leverage for use in attaining higher wages, fairer working conditions, and better jobs for the rank and file.

One means by which a union may seek to reduce arbitrary hiring decisions by management is to bargain for the right to choose a number of the workers that management employs. In the Carpenters Union, for example, most of the major collective bargaining agreements give the union broad power over job referrals; under so-called "fifty-fifty" provisions, the union has the right to select half of the workers on any job site. Combined with the power in some cases to influence management's hiring decisions through recommendations, concessions and threats, this gives the union tremendous sway over the economic lives of its members. This power may be abused by union leaders to aggrandize their power and facilitate racketeering influence in the union, at the expense of the membership at large.

As Section I of this Report describes, it appears that control in the Carpenters Union over who works at the Jacob K. Javits Convention Center ("Javits Center") has been delegated by

the District Council President, Frederick W. Devine, to organized crime syndicates, who have used it to give regular employment to their members, associates, relatives, friends and hangers-on. Despite the fact that this system clearly violates the rights of union members under the Consent Decree and federal labor law, President Devine has adamantly refused to change it and, in fact, has sought to protect it within the terms of a highly suspect collective bargaining agreement which he approved over my objection in October, 1994.

The abuse of the union's power over hiring is also central to an understanding of the endemic problems in Carpenters Local 17 in the Bronx, which are discussed in Section II. As is true of the Carpenters' jurisdiction at the Javits Center, it appears that Local 17 has been in the clutches of organized crime for decades. The business manager of the Local, Enrico Ruotolo, has been described by law enforcement sources and informants as a pawn of the Genovese Organized Crime Family ("Genovese Family"). He has systematically subverted the job referral rules imposed by the Consent Decree and used his power to reward his allies and punish his enemies. The former business manager, Benedetto Schepis, identified by law enforcement sources as having strong organized crime connections, presently plays an important behind-the-scenes role in the affairs of the Local 17.

The potential abuse of the union's job referral function was also an important factor in developing rules to govern the 1995 District Council election, as I am required to do under the Consent

Decree. Section III discusses how the perception of the ever-present threat of economic retaliation with respect to jobs chills political speech and contributes to the union's lack of a strong democratic culture, and how the proposed Rules attempt to adjust for this pernicious impediment to a vigorous and open electoral process.

I. THE JAVITS CENTER INVESTIGATION

A. President Devine Is Not Abiding By The Consent Decree

The Consent Decree specifically creates a system of job distribution designed to achieve the fair, even-handed and non-discriminatory referral of rank and file carpenters to jobs on a union-wide basis. Exhibit 1, Consent Decree at 12, ¶ 5. "The constituent locals shall make all job referrals in accordance with the job referral rules and shall comply with the job referral rules in all respects." Id. No members or sectors of the union are explicitly exempted from this Court-approved job referral system. All members and officers of the union, whether working in constituent locals or at the District Council, are ongoing members of a constituent local union, and as such are bound by the job referral system that is at the heart of the Consent Decree's anti-racketeering goals. Indeed, the rules themselves, incorporated by Paragraph 5 of the Decree, are formalized as the Job Referral Rules of the "New York City and Vicinity District Council of Carpenters." Job Referral Rules at 1, attached hereto as Exhibit 2.

The President of the District Council, Frederick W. Devine, has taken the formal position that the Decree's job referral system does not apply to carpenters' jobs referred at the Javits Center. See Letter of his counsel, Donald L. Sapir, dated July 6, 1994, attached hereto as Exhibit 3 (hereafter "Sapir Letter"). Mr. Devine apparently believes that the parties and the Court intended, in executing the Decree, to exempt the most corruption-ridden symbol of labor racketeering in the City, the Javits Convention Center, from the central and crucial reform of the Decree.

This Court has previously ruled in this case that the District Council and the local unions are not distinct entities. Thus, in rejecting the defendants' contention that the local unions should not be included within the District Council RICO enterprise, the Court ruled that the District Council officers had a "duty to remedy corruption at the Local Unions, a violation of which may establish aiding and abetting liability." United States v. District Council, 778 F. Supp. 738 (S.D.N.Y. 1991). The Court observed that

To contend that the activities of the District Council are so distinct from the Local Unions which provide the Council's officers and whose delegates make up the Council is to strain credulity.

778 F. Supp. at 758.

The District Council and President Devine entered into the Consent Decree as representatives of its membership and the union members who comprise its constituent local unions. See

Exhibit 1, Consent Decree at 2. As representatives of its membership, the District Council and President Devine cannot evade their responsibility to implement and enforce the Job Referral Rules established on behalf of each and every one of the union's members, at every site where carpenters jobs are available, including especially the highly desirable and lucrative jobs at the Javits Convention Center.

To accept President Devine's self-serving interpretation of paragraph 5 would be to create an exception so large it could undermine the broad and remedial purposes of the Job Referral Rules. Under President Devine's analysis, if he brought all job referral functions under his direct control, he would be free to refer union members to jobs in any manner he saw fit without regard to the Consent Decree, since, according to him the referral rules apply only to local unions.³ This interpretation would, as I have already noted, effectively nullify one of the Consent Decree's central reform provisions.

³ President Devine states that "the Center has traditionally maintained a labor pool of experienced carpenters who have proven their reliability and their expertise in this specialty." See, Exhibit 3, Sapir Letter at 3. This statement is inconsistent with a statement made by John Abbatemarco, First Vice-President of the District Council and the individual then responsible for assigning jobs at the Javits Center, who advised the District Council in April 1993 that he was "continuing to make calls to the various local unions, in rotation, for job referrals on exhibit work at the Jacob Javits Convention Center," which he described as "the fairest system of allocating this work." See Minutes of April 7, 1993, meeting of the District Council at 4, attached hereto as Exhibit 4.

B. President Devine's Agents Use A "Pool List"
To Control Hiring At The Javits Center

1. The Pool List

In my Interim Report to the Court submitted on October 4, 1994 (hereafter "First Interim Report"), I set forth a detailed account of my investigation of improper job referral procedures being utilized at the Javits Center by President Devine, through his personally-designated representatives and agents Anthony D. Fiorino and Lenard Simon, in derogation of the rights of rank and file carpenters throughout the region, and in flagrant violation of the Decree. See First Interim Report at 23-36.

As previously reported, Fiorino and Simon admitted in depositions conducted by this office that they operate a "pool list" at the Javits Center, composed of up to 100 carpenters, who are assigned work at the Javits Center before any jobs there are referred to rank and file members of any of the local unions. This arrangement is completely at odds with both the spirit and the letter of the Consent Decree's Job Referral Rules. Our investigation into the allocation of jobs at the Javits Center has not only revealed that the "pool list" system is unfairly discriminatory and violative of the job referral rules, but that many members of the "pool list", as well as the individuals responsible for the compilation of that list and the distribution of jobs at the Javits Center, have apparent ties to La Cosa Nostra or criminal records, or both. Approximately one-third of those on the "pool list" have criminal histories, including arrests or convictions for a wide range of criminal offenses, such as larceny,

arson, narcotics, robbery, weapons possession, burglary, and murder.

2. The Men Who Control The Pool
List For President Devine

Fiorino and Simon, President Devine's personally-appointed representatives at the Javits Center, and the men who control the "pool list," have clear ties to organized crime. According to the Supplemental Complaint filed in the RICO suit, Fiorino "has associated with organized crime figures, including defendant Liborio 'Barney' Bellomo," who is Fiorino's brother-in-law. See Supplemental Complaint at 41-42. Bellomo is reputed to be a "Capo" or Captain of the Genovese Crime Family, and is now believed by law enforcement authorities to be the acting-boss of the Genovese Family. Id. at 8. Simon is the brother-in-law of Ralph Coppola, who was removed as the District Council's chief steward at the Javits Center by President Devine, under pressure from the Government and the press, in August of 1991. In removing Coppola, a convicted arsonist, from the Javits Center, President Devine acknowledged that Coppola was associated with La Cosa Nostra. See Letter of Frederick W. Devine dated August 6, 1991 attached hereto as Exhibit 5.

In two sworn depositions conducted by my staff, President Devine has sought to avoid responsibility for the procedures governing the allocation of work at the Javits Center by testifying that he is largely unaware of matters involving the Center, has only been on the premises a few times, and did not even know Fiorino and Simon (except by their first names) when he made them

his handpicked representatives at the Center. See, Letter of Frederick W. Devine, dated April 25, 1994 (formalizing their designations as his agents), attached hereto as Exhibit 6. At other points in his testimony, President Devine stated that he chose Fiorino and Simon without any knowledge of their relationship to Coppola and Bellomo, despite the fact that these relationships had been widely reported in newspaper accounts, and were also described in the civil RICO complaint in which President Devine himself was a named defendant. According to President Devine, he did not see the newspaper articles, only read very selective portions of the complaint, and selected Fiorino and Simon because Fabian Palomino, the President and Chief Executive Officer of the Javits Center, brought these men to his attention. See Deposition of Frederick W. Devine, July 19, 1994 (hereafter "Devine Deposition"), at 34-35, attached hereto as Exhibit 7.

In addition to the ties to organized crime described above, Fiorino and Simon have dubious union credentials. Simon admitted, during a deposition taken by my staff on June 24, 1994, that he became a member of the union through Coppola, and that he had no prior experience in the skills of the carpentry trade. In his sworn testimony, Simon testified that while he was an out-of-work taxi driver his wife asked her brother, Coppola, if work could be found for Simon at the Javits Center. See Deposition of Lenard Simon, June 24, 1994, at 52-53, attached hereto as Exhibit 8. Mr. Simon, with no other qualifications, falsely swore on his application for union membership that he had five years of

experience in the trade. He was then quickly granted membership in the union, and by virtue of Coppola's influence at the Javits Center, immediately assigned to work there on a permanent basis.

Fiorino's pedigree as a carpenter, and his path to membership in the union, is similarly suspicious. He claimed in his union application to have worked four years "at the trade." In his deposition, however, Fiorino testified that he went from being a full-time student at Iona College, to working for a year or so in a jewelry store, before he was introduced to the union in 1982 by Attilio Bitondo, who at that time was the Business Agent of Local Union 257. See Deposition of Anthony Fiorino, June 24, 1994 (hereafter "Fiorino Deposition"), at 9-12, attached hereto as Exhibit 9. In 1990, Bitondo, a Genovese associate,⁴ was convicted of conspiracy and bribery of a labor official. He was sentenced to 1½ - 4½ years in New York State prison.

3. Pool List Members Are Well Compensated

Our investigation further revealed that membership on the "pool list" at the Javits Center leads to handsome compensation for those fortunate enough to be included. Of the approximately 100 individuals who comprise the primary pool of carpenters working at the Javits Center, almost half would earn over \$40,000 from this work in 1994, and almost a third over \$50,000. The good fortune enjoyed by this favored group of individuals stands in stark contrast to the experience, as reported to my staff, of hundreds of

⁴ See Affidavit of Marcello Svedese dated August 8, 1990 at 3-4, attached hereto as Exhibit 10 (hereafter "Svedese Aff.").

members of many of the local unions who may be out of work for months at a time, and who have been effectively denied access to jobs at the Javits Center.

Working at the Javits Center has been especially rewarding for Fiorino and Simon. Based on records subpoenaed by this office last year, their projected earnings for 1994 were estimated at \$106,000 for Mr. Fiorino and \$144,000 for Mr. Simon.

In contrast to the generous compensation of the favored few, the rank and file obtain little or no work at the Javits Center. Furthermore, it should be noted that the "pool list" does not reflect the mixed ethnic and racial makeup of the union. Almost all of the names on the list are Italian-American, with only a few names of other ethnic derivations. Furthermore, women and minorities appear to be completely excluded from the "pool list."

C. President Devine's Effort To Institutionalize Discriminatory Referral Practices

The first response by President Devine to my investigation of referrals at the Javits Center occurred shortly after the June 24, 1994, depositions of Fiorino and Simon. Within one week of their depositions, where it was made plain to them that their job referral system was being scrutinized, Fiorino and Simon, utilizing the ongoing negotiations between the District Council and the major exhibition companies employing carpenters at the Javits Center, proposed, for the first time in many months of negotiations, that a new collective bargaining agreement contain terms, the purpose and effect of which, was to perpetuate the "pool

list" system and to insulate the select group of about 100 individuals from the Consent Decree's Job Referral Rules. The two main features of the proposal were that ninety percent (90%) of the carpenters referred to jobs at the Javits Center were to have at least three years of experience working in the trade show industry and that the exhibition companies could select fifty percent (50%) of the carpenters they would use from a "labor pool of experienced carpenters who have proven their reliability and their expertise in this specialty." See Exhibit 3, Sapir Letter at 3.

Although this proposal, which came to be known as "proposal 14," was later withdrawn by the District Council, in part due to my opposition to it, it was reworked and the collective bargaining agreement that emerged from these negotiations and is presently in force, in spite of my opposition to it, contains provisions which operate to protect the "pool list" system and exempt the 100 or so favored members from the Job Referral Rules. This collective bargaining agreement sets forth qualifications for working at the Javits Center that in large measure can only be met by those already on the "pool list." See Convention and Exhibition Field Agreement at 15-18, attached hereto as Exhibit 11.⁵ It also sets up a certification program that requires many hours of "training" before a member not currently on the "pool list" can

⁵ Under this collective bargaining agreement signed by President Devine, an individual is an "A-Qualified" carpenter if he has 500 hours of trade show experience or 300 hours and has graduated from the 50 hour training course given by Fiorino and his stewards. Eighty percent of the men referred by the union must have these "qualifications." Id.

become "qualified" to work at the Javits Center. Id. This is in spite of Fiorino's admission that all union members are qualified to work at the Javits Center. Fiorino Deposition at 50, attached hereto as Exhibit 12.

In an effort to resolve the very substantial differences between this office and President Devine on Javits Center matters without involving the Court, my staff and I met with President Devine's lawyers on four separate occasions and held numerous teleconferences between September 1, 1994, and September 30, 1994. During this negotiation process, on September 7, 1994, my office presented President Devine and his counsel with a list of eighteen requirements for designing and implementing a new non-discriminatory job referral system at the Javits Center that would open up work at the Center to the rank and file. The first of these requirements was that no new system could be implemented effectively at the Javits Center if Fiorino and Simon were allowed to remain as the District Council's representatives appointed by President Devine. I reiterated to President Devine that the "pool list" system operated to lock out the rank and file, and that certain sections of the collective bargaining agreement served merely to perpetuate this unfair system by setting up qualifications that only those already on the "pool list" could meet.

From the beginning of negotiations, President Devine rejected the first and most important point: that both Fiorino and Simon must be replaced at the Javits Center. On October 3, 1994,

I received from President Devine a letter which constituted a unilateral termination of the negotiations. See Letter of Frederick W. Devine, dated October 3, 1994, attached hereto as Exhibit 13.

The system President Devine unilaterally announced and described in that letter, and which he has now formally established at the Javits Center, rejects indispensable requirements I insisted upon in our negotiations. President Devine has embarked on a course of action which he knew I opposed. His letter is a clear attempt to create the impression that his announcement was made after obtaining my approval. This is false.

President Devine's system deviates from my requirements in that it does not provide for the removal of Fiorino and Simon from their roles at the Javits Center; it incorporates new provisions in the Collective Bargaining Agreement that preserve and perpetuate the present illegal and unfair "pool list" system, and serves to grandfather-in those on the current list; it penalizes any member who works more than five consecutive days at the Javits Center by dropping such a member to the bottom of the job referral list at the member's local union; it creates a Javits job referral list at each local as opposed to a central list; it maintains an "Industry List," also known as the "pool list," from which 80% of the union's job referrals are made; it invites disputes as to the contractor's right and ability to independently, and without coercion, select its 50% of the work force; and it does not provide for, and, indeed, attempts to defeat, any meaningful supervision by

the IRO of both the registration procedure and the referral system itself.

In addition to these specific deviations from key elements of the proposals made by my office, President Devine's proposed system masks extraordinarily serious questions regarding the implementation of a fair job referral system at the Javits Center. In short, President Devine's system, as well as the posture he has taken in his negotiations with this office, raises more questions than it answers, especially with respect to the commitment of the District Council and its leadership to deal directly, effectively and forthrightly with profoundly troubling conditions at the Javits Center. It further places in doubt the commitment of the District Council and President Devine to honor the terms of the Consent Decree and refrain from actively impeding the work of the IRO.

D. President Devine Receives Formal Notice Of His Agents' Conduct

President Devine had personal knowledge of the actions of his representatives and agents, Fiorino and Simon, at least since July 1, 1994. In a letter addressed to him on that date, I stated:

This is to inform you that the Office of the Investigations and Review Officer, pursuant to the powers vested in him by the consent decree approved by Honorable Charles S. Haight, Jr. of United States District Court, Southern District of New York, on March 4, 1994, is conducting a formal investigation into whether jobs referred at the Javits Convention Center since April 25, 1994, by and pursuant to your authority and consent, have been awarded in violation and contravention of the decree, and whether there is and has been an obstruction of this investigation and contempt of the Consent Decree and the United States Court.

It is my understanding that your representatives met yesterday with representatives of Convention Center contractors, and sought to induce them to formalize and endorse a procedure that is presently in place, and which appears to violate the decree. I have specific reference to proposal 14, raised for the first time yesterday, by your designee and deputy, Anthony Fiorino, three days after the testimonial examination of Messrs. Fiorino and Simon in the aforesaid investigation. The present job referral system may constitute a broad betrayal of the rights of the rank and file throughout the seventeen locals of the district council, for access to convention center work.

Letter of the IRO dated July 1, 1994 attached hereto as Exhibit 14.

As noted, President Devine was deposed by this Office on July 19 and September 1, 1994. He admitted that he had learned two or three weeks before his July deposition of the Javits Center pool list used by his agents Fiorino and Simon to award jobs, and that the persons on the list were referred to jobs at the Center before any carpenters from the locals. He also stated that the use of the pool list had his approval. Devine Deposition at 41-42, 66-68, attached hereto as Exhibit 15. He also admitted that he had learned earlier that Simon was related to Ralph Coppola, *id.* at 50, and that Fiorino was related to Liborio "Barney" Bellomo, *id.* at 53. He was advised during his deposition of the criminal histories, familial ties and substantial incomes of persons on the pool list. Devine Deposition at 136-192. Following his deposition, in a personal meeting with me, President Devine refused to rescind his designations of Fiorino and Simon, who are not elected and have no tenure rights to these roles, as his personal agents and representatives at the Javits Center.

E. Mob Insiders Confirm The Mafia's Influence

Substantial evidence has been assembled demonstrating long and entrenched organized crime control of jobs at the Convention Center. This evidence comes from high sources in no less than four separate Mafia families. According to the former underboss of the Gambino Organized Crime Family, Salvatore "Sammy the Bull" Gravano, the Genovese Family has controlled the District Council since at least the late 1970s. See Declaration of Salvatore Gravano, dated February 10, 1993 at 2, attached as Exhibit 16 (hereafter "Gravano Dec."). Gravano also identified Barney Bellomo as the Genovese Family acting boss who had "responsibility" for the District Council and who exercised influence over the Council through Ralph Coppola. Id.

According to Genovese member Vincent "the Fish" Cafaro, the former right-hand man of Genovese acting boss "Fat Tony" Salerno, "the Genovese Family controlled the hiring of carpenters union members, first at the New York Coliseum, and then at the Javits Convention Center." See Declaration of Vincent Cafaro dated August 28, 1990 at 4, attached hereto as Exhibit 17 (hereafter "Cafaro Dec.").

According to Alphonse D'Arco, one-time acting boss of the Luchese Organized Crime Family, "the Genovese family controlled a number of labor unions, including the Carpenters Union in New York City." See Declaration of Alphonse D'Arco, dated May 24, 1994 at 5 attached hereto as Exhibit 18 (hereafter "D'Arco Dec."). D'Arco

says that one of the principal reasons La Cosa Nostra ("LCN") tries to control labor unions is that:

"the control of labor unions provides a large amount of revenue to an LCN family through a variety of activities, both legitimate and illegitimate. The principal reason for desiring to control labor unions, however, is that the control of labor unions allows the LCN family a means of entry into legitimate commerce through guaranteeing labor union jobs for family members and associates or through providing a competitive advantage to LCN-influenced businesses."

Exhibit 18, D'Arco Dec. at 4. According to D'Arco, "Bellomo specifically controlled the operations of the Carpenters Union at the Javits Convention Center for the Genovese Family." Exhibit 18, D'Arco Dec. at 5. D'Arco recounts that in late 1990 or early 1991

I met with Bellomo after Bellomo's picture had been reprinted in a newspaper article regarding organized crime. The article also discussed Ralph Coppola and the Genovese Family's influence at the Javits Center. Bellomo told me that there was too much heat on Coppola, and that he intended to remove Coppola from the Javits Center. Bellomo told me that Coppola would continue to supervise Genovese Family operations at the Javits Center, but would no longer work there. Bellomo also told me that he would replace Coppola at the Javits Center with Bellomo's brother-in-law (whose name he did not mention), who was an associate of the Genovese Family.

Exhibit 18, D'Arco Dec. at 7. Fiorino is Bellomo's brother-in-law who replaced Ralph Coppola.

According to Salvatore Miciotta, a former capo in the Colombo Organized Crime Family who regularly employed union carpenters at the Javits Center through a company he owned called Exhibit Services, "the Genovese Family has exercised its power through a chief steward of the carpenters union in charge of exhibit work, including the work performed at the Javits Center,"

Miciotta says that "Anthony Fiorino and Lenard Simon are both associates of the Genovese family." See Declaration of Salvatore Miciotta dated November 9, 1994 at 2-3, attached hereto as Exhibit 19 (hereafter "Miciotta Dec."). Further, Miciotta states that after Coppola was removed from his "formal position as chief steward," Fiorino and Simon "then took over" and continued to refer people connected to the Genovese Family for carpenters union jobs at the Javits Center, and "continued to serve the interests of the Genovese family, especially Ralph Coppola and Barney Bellomo." Exhibit 19, Miciotta Dec. at 5.

In the late 1980s, Frank Viggiano, a Genovese family associate, gave a list of some 75 names to Marcello Svedese, the former business manager of Local Union 17, and directed him to give those individuals preference for Javits Center job referrals. Because many of those on the list were believed by Svedese to be "connected," he later turned the list over to law enforcement officers. Furthermore, Svedese said in a deposition in the government's suit against the District Council that he also sent 30 to 40 people to work at the Javits Center at the "request" of two members of the Genovese family -- a capo, Peter DeFeo, and one of his crew members, Alex Morelli -- with whom he was associated. See deposition of Marcello Svedese, April 28, 1992 at 228-29, attached hereto as Exhibit 20.

In June 1994, this office discovered that nine of the individuals from Svedese's list still appeared on the pool list maintained and utilized by Fiorino and Simon for providing jobs at

the Center. This office has also recently been provided with another list of names of apparent favorites of the Genovese Family. The list, comprising fourteen names, was compiled by a detective during an undercover operation at a Genovese social club in Little Italy favored by Genovese capo Dominick "Quiet Dom" Cirillo. Seven of the individuals on this list, compiled in August 1991, are still on the pool list, and the other seven names belong to men known to have worked as carpenters at the Javits Center.

F. Charges Against Fiorino and Simon

On December 5, 1994 I filed an administrative complaint against Fiorino containing eight distinct offenses. A removal hearing on these charges was adjourned from February 1, 1995 to March 20, 1995 at the insistence of Fiorino's attorney, Richard Medina.

In summary, Fiorino is accused of (1) serving as the acting agent of the Genovese Organized Crime Family at the Javits Center, and knowingly associating with members and associates of the Genovese Organized Crime Family and other crime families of La Cosa Nostra, including Liborio "Barney" Bellomo and Ralph Coppola; (2) discriminating against rank and file members of the union by referring pool list members for work before any other members;⁶ (3) threatening a fellow local union member in 1984 with physical harm after that member had complained at a regular meeting of Local 257

⁶ Such conduct violates, among other things, 29 U.S.C. §158(b)(1)(A) (The National Labor Relations Act), and constitutes a breach of the duty of fair representation that a person in Mr. Fiorino's position has to union members.

about violations of the collective bargaining agreement by a contractor at a job site at which Fiorino served as the shop steward;⁷ (4) acting in 1985 on behalf of a contractor doing business at a job site in the jurisdiction of Local 17, who sought to avoid the employment of union carpenters by asking a union official at Local 257, Attilio Bitondo, to intercede and stop the effort of another Local 17 union official to secure the employment of Local 17 members at the job site; (5) participating in 1985 in a scheme involving a Taft-Hartley Act⁸ violation in which he asked a contractor to give him window blinds for his own benefit and for the benefit of Bitondo; (6) allowing men suspended from the union to work at the Javits Center; (7) falsely representing his qualifications as a carpenter when he applied for membership in the union; and (8) violating the AFL-CIO resolution regarding invocation of the Fifth Amendment by union officers when he declared that he would decline to answer questions in the RICO case then being litigated by the United States and the District Council. The charges against Fiorino are attached hereto as Exhibit 21.

Simon ostensibly resigned his position as President Devine's representative on October 7, 1994, with President Devine's "sincere congratulations and thanks for assisting in the negotiations of the new agreement covering employment at the Javits Center." See letter of Frederick Devine dated October 13, 1994 attached hereto as Exhibit 22.

⁷ Such conduct violates 29 U.S.C. §§ 530 and 411.

⁸ 29 U.S.C. 186(b)(1).

Despite his "resignation," Simon continues to serve as a highly compensated "timekeeper," or shop steward, at the Javits Center. See deposition of Lenard Simon taken February 17, 1995 at 405.

Simon's deposition was taken by my office in four sessions between June 24, 1994 and February 17, 1995. I am today filing an administrative complaint against him, in which he is charged with four separate offenses. In summary, Simon is accused of (1) knowingly discriminating, at the behest of the Genovese crime family, against members of local unions desiring work at the Javits Center by referring pool list members before any others to work at the Javits Center; (2) allowing men suspended from the union to work at the Javits Center; (3) falsely representing his qualifications as a carpenter when he applied for membership in the union; (4) violating the Taft-Hartley Act when, as District Council representative at the Javits Center, he served as a union officer getting paid as an employee of trade show contractors while he was in fact acting only as an agent of the union and not as a bona fide employee of the trade show contractors. The charges against Simon are attached hereto as Exhibit 23. A hearing on the charges will be scheduled shortly.

G. Two Reputed Racketeers Invoke The Fifth Amendment

According to admitted members of La Cosa Nostra, Ralph Coppola is a made member of the Genovese Family. See Exhibit 19, Miciotta Dec. at 3; Exhibit 18, D'Arco Dec. at 5.

On January 17, 1995, this office served Coppola with a subpoena compelling his testimony at a deposition. He refused to appear for his deposition. We moved this Court for an order adjudging Coppola to be in contempt. The Court found Coppola in contempt and ordered him to appear and submit to a deposition. See order dated February 6, 1995, attached hereto as Exhibit 24. His attorney then advised us that Coppola would invoke his Fifth Amendment privilege in response to all questions propounded by my office. Thereafter, Coppola entered into a stipulation with this office in which he acknowledged that he would not answer questions because of his Fifth Amendment privilege against self-incrimination. See Stipulation and Order dated February 17, 1995 attached hereto as Exhibit 25.

This office entered into a virtually identical stipulation with Liborio "Barney" Bellomo, the putative "acting boss" of the Genovese Family, and the brother-in-law of Anthony Fiorino. This stipulation was also executed only after Bellomo's counsel stated that Bellomo would invoke his Fifth Amendment privilege in response to questions propounded by the IRO. See Stipulation and Order, dated January 6, 1995 and so ordered January 13, 1995, attached hereto as Exhibit 26.

Through these stipulations, Coppola and Bellomo have acknowledged that, because of their Fifth Amendment privilege against self-incrimination, they would not answer questions of this office pertaining to, among other matters, their ties to organized crime, the relationship between organized crime and the Javits

Center, their relationships with and influence over members of the District Council, their relationships with Fiorino and Simon, their relationships with the men on the pool list, their relationships with and influence over contractors, and the distribution of jobs at the Javits Center.

H. Depositions Of Pool List Members

My office deposed 34 of the approximately 100 pool list members from November 1994 through February 1995. These individuals were selected to be deposed based upon information we obtained from various official sources about criminal histories, including governmental records, and because of putative associations with members and associates of the Genovese organized crime family.

We believe that efforts were made by officials of the District Council to orchestrate the testimony of the "pool list" deponents. After it became known that the IRO planned to depose persons on the "pool list," a meeting was held among Javits Center carpenters and several District Council representatives. At this meeting, held at the Marina Del Ray Hotel in the Bronx, George Santangelo, President Devine's personal attorney, and Lenard Simon, spoke to the prospective deponents about the upcoming depositions, the Consent Decree, and the IRO.

The deponents gave uniformly vague and incredible testimony about this meeting; for instance

- They could not identify who told them that there would be a meeting or how they were informed of the meeting.

- They could not relate the substance of the presentations by Messrs. Santangelo and Simon, other than in the most vague and general terms.
- They spoke to no one before the meeting about what they expected to transpire at the meeting.
- They spoke to no one after the meeting about what had transpired at the meeting.

Each deponent was asked about his carpentry experience prior to joining the union. An extraordinary percentage of the deponents testified that they had done carpentry work on their own or through informal arrangements with others over a period encompassing at least four years, the minimum period that an applicant for membership in the Carpenters Union must have worked "at the trade" in order to be accredited as a journeyman, thus bypassing the arduous apprenticeship process and the restrictions placed on the employment of apprentices. Invariably, witnesses could neither verify these arrangements nor give meaningful testimony about them.

With regard to operations at the Javits Center, witnesses gave vague and evasive testimony. While deponents claimed that the work they did at the Center was difficult, not one of these deponents had ever received any special training in order to perform this work, and they acknowledged that they had received no training from the union. Many could not identify what the chief steward or the District Council representatives actually did at the Javits Center. Many of the deponents could not identify or recall who the union's representatives were at a given time during their tenure. This failure of memory was consistent with the repeated

refrain from the deponents that they could not identify carpenters who worked at the Javits Center by their full names. The deponents displayed a uniform lack of knowledge about Ralph Coppola, and many claimed that they had never heard that Coppola was removed from his position at the Javits Center because of his putative involvement with the Mafia, a fact widely reported in the New York press.

When asked about organized crime, whether referred to as La Cosa Nostra, the Mafia, or as organized crime, the deponents invariably testified that they did not believe that it existed. Some of the pool list deponents testified that, prior to their depositions, they had never even heard of various organized crime families, including the Genovese Family. At least one of the men claimed never to have heard of John Gotti, the notorious boss of the Gambino Family.

I. The Compelling Need For The Court's Intervention On Javits Center Conditions

In light of the compelling nature of the foregoing evidence demonstrating the District Council's and President Devine's willing abdication of their duties of faithful representation of the rank and file membership regarding job referrals at the Javits Center, and their active obstruction of the remedial purposes of the Consent Decree with respect to union operations at the Javits Center, I have today, pursuant to authority invested in me by the Decree, filed an application in this Court seeking an order

- a) invalidating certain portions of the collective bargaining agreement governing job referrals in

general, and compensation of union officers at the Javits Center;

- b) requiring the District Council to refer jobs at the Javits Center in accordance with the job referral rules of the Consent Decree; and
- c) authorizing the IRO to oversee union activities at the Javits Center.

The memorandum of law accompanying this application demonstrates the compelling need for this relief. It sets forth the legal and factual grounds that will allow the Court to conclude that the District Council and its agents at the Javits Center have engaged in systematic violations of the Consent Decree, the Hobbs Act, the Mail and Wire Fraud Statutes, and the Taft-Hartley Act.

II. THE INVESTIGATION OF LOCAL UNION 17

A. A History of La Cosa Nostra Influence

Local 17 was formed by the merger, in 1981, of Locals 385, 488, 366, and 1888.⁹ Its jurisdiction encompasses all of Manhattan north of 110th Street and all of the Bronx. This is the largest territory of any of the District Council's constituent local unions.

Local 17's documented historical affiliation with organized crime has been a continuing cause for concern. According to Marcello Svedese, the former business manager of the Local, in approximately 1987, Liborio "Barney" Bellomo's East Harlem faction, or "crew," of the Genovese Family became embroiled in a dispute with the family's Little Italy crew, headed by Peter DeFeo, over

⁹ See Exhibit 10, Svedese Aff. at 2.