

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

	x	
UNITED STATES OF AMERICA,	:	
	:	
Plaintiff,	:	
	:	
-Against-	:	88 Civ. 4486 (LAP)
	:	
INTERNATIONAL BROTHERHOOD	:	
OF TEAMSTERS, CHAUFFEURS,	:	
WAREHOUSEMEN AND HELPERS	:	
OF AMERICA AFL-CIO, et al.,	:	
	:	
Defendants.	:	
	:	
	x	

**DECLARATION IN SUPPORT OF THE INDEPENDENT INVESTIGATIONS
OFFICER'S APPLICATION FOR THE ISSUANCE OF SUBPOENAS
DIRECTING AT&T CORPORATION, REGIONS BANK AND CHASE BANK
USA, N.A. TO PRODUCE SPECIFIED RECORDS**

1. I am Special Counsel to Joseph E. diGenova, the Independent Investigations Officer. I submit this declaration in support of the Independent Investigations Officer's Application pursuant to the Final Agreement and Order in United States v. International Brotherhood of Teamsters, 88 Civ. 4486 ("Final Agreement"), the court-approved Rules Governing the Authorities of Independent Disciplinary Officers and the Conduct of Hearings ("Rules"), 18 U.S.C. § 1965(c) and the All Writs Act, 28 U.S.C. § 1651, for subpoenas directing AT&T Corporation ("AT&T"), the provider for Teamster officer and member William C. Smith, III's ("Smith") IBT cellular telephone; Regions Bank, where Smith has an account; and Chase Bank USA, N.A. ("Chase"), where Smith and Charles Bertucio ("Bertucio"), a facilitator for a vendor to IBT Funds who arranged for at least one golf trip for IBT officials, have had credit card accounts, to produce to the Independent Investigations Officer no later than September 12, 2016, or within ten days

after service of the subpoena whichever comes later, the documents detailed in the attached Application.

2. The Final Agreement and the Rules empower the Independent Investigations Officer to investigate any allegations of corruption in the IBT including, but not limited to, bribery, embezzlement, extortion, loan-sharking, violations of the Landrum Griffin Act, the Taft Hartley Act, acts of racketeering and allegations of organized crime association. (Ex. 1 at 16; Ex. 2 at 2)

3. Pursuant to Paragraph 30 of the Final Order and Agreement, “consistent with the practice of the IRB, the Independent Investigations Officer shall be authorized to request that the Court issue subpoenas.” (Ex. 1 at 17) Pursuant to Paragraph B, Section 2(c) of the Rules, the Independent Investigations Officer may seek this Court’s permission to issue a subpoena for information from outside the union, its members and officers. For example, the Rules empower the Independent Investigations Officer, upon application to this Court, to take the sworn statements or sworn in-person examinations of persons not covered in the Rules. (Ex. 2 at 4)

4. Pursuant to the Final Agreement and the Rules, the Independent Investigations Officer has initiated an investigation concerning, among other things, the awarding of contracts to a service provider for the IBT’s VEBA Trust and golf trips taken by IBT officials and a facilitator for the service provider which was awarded the contracts with the IBT’s VEBA Trust and other things of value the facilitator may have provided to IBT officials.

5. In 2013, the VEBA Trust issued a request for proposals for a Pharmacy Benefits Manager (“PBM”) for two programs under the VEBA Trust: Medicare Part D and TeamsteRx Coalition.

6. Optum RX (“Optum”) was the incumbent PBM for the VEBA Trust. Optum RX is part of UnitedHealth Group which also includes UnitedHealthcare. Charles Bertucio is a licensed accident and health insurance producer in California and is authorized to transact business on behalf of United Healthcare, the owner of Optum. According to Bertucio, Optum paid him a monthly retainer fee and an annual bonus based upon the union business he obtained for Optum.

7. Bertucio is a principal of The GrandFund. IBT Local 853 had a collective bargaining agreement with The GrandFund. Bertucio was an IBT member. His dues were paid using credit card number ending in -0161.¹

8. William C. Smith, III is a Trustee on the VEBA Trust, the Executive Assistant to the IBT General President and the principal officer of Local 891 in Jackson, MS. His IBT cellular telephone number is [REDACTED] AT&T is the service provider for this telephone.

9. In May 2013, the VEBA Trustees selected Optum RX to provide PBM services for the VEBA Trust. The winning bid did not come through the same process as the other bidders.

10. A review of a Fund Trustee's emails show that he and an IBT employee discussed how Optum, the highest bidder on the day the bids were submitted, could restructure its bid to be as high as possible and still be competitive. It also showed the Fund Trustee

¹ The full credit card and bank account numbers are in the attachments to the relevant subpoenas.

passed information on to Bertucio, Optum's agent, about where it stood in relation to the other bids.

11. In August 2013, Smith, Bertucio and other IBT officials and vendors to the IBT went on a golf trip to Scotland. According to Smith, in August 2012 he paid a deposit for this trip and in July 2013 he paid the balance for this trip. According to Smith, the deposit and the balance were charged on his credit card account number ending in -9764. Payments for this account were made to Chase Card Services. According to Smith, he usually made payments to Chase Card Services for this account by causing telephone phone payments to be made from his Regions Bank account. The account number for Smith's Regions Bank account ends in -7588.

12. In July 2014, Smith, Bertucio and other IBT officials and vendors to the IBT went on a golf trip to Ireland. According to Smith, he paid a deposit for this trip by sending a money order to Bertucio. According to Smith, he charged his airfare to Ireland on his credit card account number ending in -0600. Payments on this account were made to Chase Card Services. According to Smith, he usually made his credit card payments by telephone payments from his Regions Bank account.

13. According to Smith, he paid the balance for the Ireland golf trip by issuing from his Regions account check 6082 dated July 10, 2014 to Chase Credit Card Services and mailing the check to Bertucio. This check was out of sequence with other checks Smith wrote on the same account. For example, Smith's check 6047 from the same account was dated October 28, 2014.

14. Smith's check to Chase Credit Card Services described in paragraph 13 above had a sixteen digit number ending in -0161 written on the check. Bertucio used this credit card account number to pay his dues to IBT Local 853.

15. According to Smith, in September 2014, Bertucio paid for Smith to play golf in Monterey, CA. According to Smith, he repaid Bertucio by purchasing golf gloves for Bertucio.

16. According to Smith, in June and September 2015, he issued two checks from his Regions account to Bertucio reportedly to pay for a golf trip to Charleston, SC. This trip was reportedly cancelled. According to records Smith provided, these checks were both posted months after they were dated. For example, according to records Smith provided, he issued a check to Bertucio dated September 7, 2015. According to records Smith provided, it was posted on November 13, 2015. This was after Bertucio's IRB sworn examination during which he was asked about golf trips taken with IBT officials.

17. According to an individual familiar with Bertucio and IBT International officials who socialized with him, Bertucio has paid for various items for IBT officials including golf trips and meals.

18. In June 2015, a Teamster Local officer from the Midwest who was a Trustee of a fund attended an NBA Finals game in Oakland, CA with Bertucio.

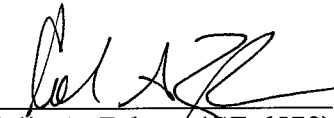
19. The foregoing demonstrates that just cause exists for the issuance of subpoenas directing AT&T, Regions Bank and Chase Bank USA, N.A. to produce the specified records which would assist the Independent Investigations Officer in the ongoing investigation of the IBT. Accordingly, just cause exists for the issuance of the subpoenas directing the production of the specified records.

20. I declare under penalty of perjury the foregoing is, to the best of my knowledge,
true and correct.

Dated: New York, New York
August 29, 2016

Respectfully submitted,

Joseph E. diGenova
Independent Investigations Officer

By: 
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TO: AUSA Tara LaMorte
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CERTIFICATE OF SERVICE

I, Celia A. Zahner, hereby certify that on August 29, 2016, I caused a copy of the foregoing INDEPENDENT INVESTIGATIONS OFFICER'S APPLICATION FOR THE ISSUANCE OF SUBPOENAS DIRECTING AT&T CORPORATION, REGIONS BANK AND CHASE BANK USA, N.A. TO PRODUCE SPECIFIED RECORDS, and the DECLARATION IN SUPPORT OF THE INDEPENDENT INVESTIGATIONS OFFICER'S APPLICATION FOR THE ISSUANCE OF SUBPOENAS DIRECTING AT&T CORPORATION, REGIONS BANK AND CHASE BANK USA, N.A. TO PRODUCE SPECIFIED RECORDS to be filed electronically and served upon the below by mail to anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by cooperation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF system.


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