

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -X
UNITED STATES OF AMERICA : NOTICE OF CHARGE
: :
- v. - : :
WILLIAM T. HOGAN, JR., : 07 Cr. Misc. ___ (LAP)
: 88 Civ. 4486 (LAP)
Defendant. : :
- - - - -X

SPECIFICATION OF CONTEMPT

COUNT ONE

1. On March 14, 1989, the Honorable David N. Edelstein, United States District Judge for the Southern District of New York, entered a Consent Decree in United States v. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO, et al., 88 Civ. 4486 (DNE) (the "Consent Decree"), which, among other things, contained an injunctive order directing that all "General Executive Board members, officers, representatives, members and employees of the [International Brotherhood of Teamsters ("IBT")] are hereby permanently enjoined . . . from knowingly associating with . . . any person otherwise enjoined from participating in union affairs." (Consent Decree ¶ E(10)). On May 29, 2002, the Independent Review Board ("IRB") of the IBT "permanently barred [WILLIAM T. HOGAN, JR.] from holding membership in or any position with the IBT or any IBT-affiliated entity." The IRB further ordered that "William T. Hogan, Jr. may not hereafter obtain employment, consulting or other work, directly

or indirectly, with the IBT or any IBT-affiliated entity." On August 22, 2003, this Court entered the IRB's decision as a court order. On September 23, 2004, the Court of Appeals for the Second Circuit affirmed this Court's decision.

2. In violation of the Consent Decree, WILLIAM T. HOGAN, JR., associated with Joseph L. Bernstein, John Kikes, Robert Riley, and Jerry Vincent, all members and officers of the IBT, on at least 150 occasions from at least in or about August 2002, until at least in or about October 2005, all after HOGAN had been barred from the IBT.

Statutory Allegation

3. From at least in or about August 2002, until at least in on or about October 2005, in the Southern District of New York and elsewhere, WILLIAM T. HOGAN, JR., the defendant, unlawfully, willfully, and knowingly did disobey and resist, and aid and abet others in disobeying and resisting, a lawful writ, process, order, rule, decree, and command by a court of the United States, to wit, the order issued by the Honorable David N. Edelstein, United States District Judge for the Southern District of New York, on March 14, 1989, directing all officers of the IBT to cease knowingly associating with any person enjoined from

participating in union affairs," after HOGAN had been so enjoined on May 29, 2002.

(Title 18, United States Code, Sections 401(3), 2(a) and 2(b); Federal Rules of Criminal Procedure, Rule 42(a).)

Michael Garcia

MICHAEL J. GARCIA
United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

| | |
|--------------------------|---|
| - - - - -X | |
| UNITED STATES OF AMERICA | : |
| | : |
| - v. - | : |
| | : |
| WILLIAM T. HOGAN, JR., | : |
| | : |
| Defendant. | : |
| | : |
| - - - - -X | |

07 Cr. Misc.
88 Civ. 4486 (LAP)

MEMORANDUM OF LAW IN SUPPORT OF
THE GOVERNMENT'S APPLICATION FOR AN ORDER
TO SHOW CAUSE WHY WILLIAM T. HOGAN, JR.
SHOULD NOT BE ADJUDGED IN CRIMINAL CONTEMPT

The Government respectfully submits this Memorandum of Law in support of its Application for an Order to Show Cause why the defendant William T. Hogan, Jr. ("Hogan") should not be adjudged in criminal contempt. As set forth below, Hogan willfully violated, and aided and abetted the violation of, the Consent Decree in United States v. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, AFL-CIO, et al., 88 Civ. 4486 (DNE).^{*} The Consent Decree contained an injunctive order directing that all "General Executive Board members, officers, representatives, members and employees of the [International Brotherhood of Teamsters ('IBT')]" are hereby permanently enjoined . . . from knowingly associating with . . . any person otherwise enjoined from participating in union affairs."

* The Consent Decree was entered by the Honorable David N. Edelstein, United States District Judge, Southern District of New York; from in or about September 2001, this Court has presided over all matters related to the Consent Decree.

(Consent Decree ¶ E(10)). On May 29, 2002, the Independent Review Board ("IRB") of the IBT "permanently barred [Hogan] from holding membership in or any position with the IBT or any IBT-affiliated entity" and further ordered that "[Hogan] may not hereafter obtain employment, consulting or other work, directly or indirectly, with the IBT or any IBT-affiliated entity." On August 22, 2003, this Court entered the IRB's decision as a court order. Notwithstanding the court-ordered ban on contact between Hogan and members of the IBT, Hogan associated with four IBT members and officers -- Joseph L. Bernstein, John Kikes, Robert Riley, and Jerry Vincent -- on at least approximately 150 occasions from at least in or about August 2002 until at least in or about October 2005, all after Hogan had been barred from the IBT. Hogan's willful defiance of the Consent Decree, and aiding and abetting of others to defy the Consent Decree, warrants an adjudication of criminal contempt.

ARGUMENT

THE DEFENDANT IS IN CRIMINAL CONTEMPT OF THIS COURT

A. Applicable Law

Section 401 of Title 18, United States Code, provides in pertinent part:

A court of the United States shall have the power to punish by fine or imprisonment, or both, at its discretion, such contempt of its authority, and none other, as --

* * *

(3) Disobedience or resistance to its lawful

writ, process, order, rule, decree or command.

18 U.S.C. § 401(3).

The Second Circuit has set forth the circumstances under which criminal contempt, as opposed to civil contempt, is the appropriate sanction:

The demarcation between civil and criminal contempt is well-established. The two species of contempt are distinguished by determining the purpose for which a sanction was imposed. . . . A sanction imposed to compel obedience to a lawful court order or to provide compensation to a complaining party is civil. . . . A sanction imposed to punish for an offense against the public and to vindicate the authority of the court, that is, not to provide private benefits or relief, is criminal in nature.

New York State National Organization for Women v. Terry, 886 F.2d 1339, 1350-51 (2d Cir. 1989) (citations omitted). In this application, the Government seeks to vindicate the authority of this Court, rather than provide private benefits or relief. Thus, the criminal contempt proceeding is appropriate.

Rule 42(a) of the Federal Rules of Criminal Procedure provides in pertinent part:

Any person who commits criminal contempt may be punished for that contempt after prosecution of notice. . . . The court must give the person notice in open court, in an order to show cause, or in an arrest order. The notice must: (A) state the time and place of trial; (B) allow the defendant a reasonable time to prepare a defense; and (C) state the essential facts constituting the charged criminal contempt and describe it as such.

Fed. R. Crim. P. 42(a).

A criminal contempt action may be initiated by order to

show cause or by indictment. See United States v. Lohan, 945 F.2d 1214, 1217 (2d Cir. 1991). Such an action is properly initiated before the district judge who issued the order of which the defendant is in contempt, regardless of where the contemptuous acts occurred. See United States v. Reed, 773 F.2d 477, 484 (2d Cir. 1985).

With respect to the essential elements of criminal contempt, it is axiomatic that "[a]cts of willful disobedience to clear and unambiguous orders of the court constitute contempt of court." United States v. Paccione, 964 F.2d 1269, 1274 (2d Cir. 1992) (quoting In re Weiss, 703 F.2d 653, 660 (2d Cir. 1983)). An individual who is not named in a court order can be found guilty of criminal contempt of that order if "he or she either abets or is legally identified with the named [party to the order]." United States v. Laurins, 857 F.2d 529, 535 (9th Cir. 1988); see also United States v. Paccione, 964 F.2d at 1274 ("A court may bind non-parties to the terms of an injunction or restraining order to preserve its ability to render a judgment in a case over which it has jurisdiction."); Backo v. Local 281, 438 F.2d 176, 180-81 (2d Cir. 1970) ("To be held liable in [civil] contempt, it is necessary that a non-party respondent 'must either abet the defendant, or must be legally identified with him'" (quoting Alemite Mf'g Corp. v. Staff, 42 F.2d 832, 832)); Alemite, 42 F.2d at 832 ("We agree that a person who knowingly assists a defendant in violating an injunction subjects himself

to civil as well as criminal proceedings for contempt. This is well settled law.").

Title 18, United States Code, Section 2 "enlarge[s] the scope of criminal liability under existing substantive criminal laws so that a person who operates from behind the scenes may be convicted even though he is not expressly prohibited by the substantive statute from engaging in the acts made criminal by Congress." United States v. Ruffin, 613 F.2d 408, 413 (2d Cir. 1979) (citing S.Rep.No.1020, 82nd Cong., 1st Sess. (1951), U.S.Code Cong.Serv. p. 2583). The statute contains two prongs under which accomplices who assist in, and cause, the commission of crimes are guilty as principals. Section 2(a) provides that "[w]hoever commits an offense against the United States or aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal." To prove a defendant's guilt under Section 2(a), the Government must prove that "the underlying crime was committed by someone other than the defendant and that the defendant either acted or failed to act with the specific intent of advancing the commission of the crime." United States v. Pipola, 83 F.3d 556, 562 (2d Cir. 1996). Accordingly, an individual is guilty of aiding and abetting the violation of a court order only if a principal exists who directly violated the court order. See, e.g., United States v. Karen Bags, Inc., 602 F. Supp. 1052, 1064 (S.D.N.Y. 1985), aff'd sub nom., United States v. Klayminc, 780 F.2d 179 (2d Cir. 1985), rev'd on other

grounds sub. nom, Young v. United States ex rel. Vuitton et Fils S.A., 481 U.S. 787 (1987).

Section 2(b) provides that one who "willfully causes an act to be done which if directly performed by him or another would be an offense against the United States, is punishable as a principal." 18 U.S.C. § 2(b). To prove a defendant's guilt under Section 2(b), the Government need only show that the defendant had the requisite intent to commit the underlying offense. Both the intent of the actor who committed the criminal act, and the capacity of the defendant to commit the crime as a principal, are irrelevant. United States v. Ruffin, 613 F.2d at 415 ("[T]he person committing the criminal act may provide the necessary capacity, whether or not that person has the Mens rea. In causing an innocent intermediary to commit a criminal act, the cause adopts not only the intermediary's act but his capacity."). In other words, in the context of a court order, an individual who is not directly bound by a court order can be held in contempt if he causes an individual who is subject to that order to violate it. United States v. Laurins, 857 F.2d 529, 535 (9th Cir. 1988).

Accordingly, to hold a defendant in criminal contempt, the Government must prove beyond a reasonable doubt that: (1) the Court entered a "reasonably specific" order; (2) the defendant knew of that order; (3) the defendant violated, aided and abetted, or caused the violation of, that order; and (4) the

defendant acted willfully. See United States v. Lynch, 162 F.3d 732, 734 n.2 (2d Cir. 1998); United States v. Cutler, 58 F.3d 825, 834 (2d Cir. 1995).

B. The Government Can Establish the
Four Elements of the Defendant's Criminal Contempt

As set forth below, there can be no doubt that defendant Hogan is in criminal contempt of this Court.

1. The Mandate of the Consent Decree
Was Reasonably Specific

In this case, the Consent Decree could not more clearly cover the contacts between Hogan and the union members identified above: Joseph L. Bernstein, John Kikes, Robert Riley, and Jerry Vincent (the "IBT Members"). The Consent Decree states in pertinent part: "General Executive Board members, officers, representatives, members and employees of the IBT are hereby permanently enjoined . . . from knowingly associating with . . . any person otherwise enjoined from participating in union affairs." (Consent Decree ¶ E(10)). Once Hogan was permanently barred from the IBT, the IBT Members were clearly enjoined from having any knowing association -- which this Court has defined as "purposeful and not incidental or fleeting" -- with Hogan. United States v. IBT, 824 F. Supp. 410, 414 (S.D.N.Y. 1993), aff'd, United States v. IBT ("DiGirlando"), 19 F.3d 816 (2d Cir. 1994). Hogan, in turn, was clearly prohibited from aiding, abetting, and causing their violation of this clear Consent Decree. See, e.g., Ruffin, 613 F.2d at 415.

2. Hogan Knew of the Consent Decree and of his Expulsion from the IBT

The Government will establish that Hogan was aware of the Consent Decree and was aware that the Consent Decree precluded members of the IBT from "knowing association" with him after he was expelled from the IBT on May 29, 2002.

Hogan knew of the Consent Decree. Prior to his expulsion, Hogan was a member of the IBT for approximately 40 years, during which time he also held several high-ranking positions, including IBT International Representative, President of IBT Joint Council 25, Director of Organizing and Political Director of IBT Local 714, Secretary-Treasurer and principal officer of Local 714, and Vice President of IBT Local 179. Moreover, Hogan was expelled from the IBT after an investigation and two-day hearing conducted by the IRB, an entity established pursuant to the Consent Decree as part of its disciplinary reform measures.

Hogan also knew that the IRB's decision to expel him from the IBT meant that the Consent Decree permanently enjoined IBT officers, representatives, members and employees from "knowingly associating" with him. (Consent Decree ¶ E(10)). For example, in his memorandum of law to this Court, objecting to the IRB's application for entry of its decision as a court order, Hogan acknowledged (through counsel) that the IRB's decision prohibited him, among other things, "from fraternizing with IBT

members." See Docket Entry #3707, 88 Civ. 4486 (S.D.N.Y.). After this Court entered the IRB's decision as a court order, see United States v. Hogan & Passo, No. 88 Civ. 4486 (LAP), 2003 WL 21998009 (S.D.N.Y. Aug. 22, 2003), Hogan argued in his memorandum of law to the United States Court of Appeals for the Second Circuit, see 03-6196-cv (2d Cir.), that "the IRB's punishment effectively ostracizes Hogan, prohibiting his lifelong friends and business partners even from fraternizing with him."

3. Hogan Aided, Abetted and Caused the Violation of The Consent Decree

The Government will establish that from at least in or about August 2002, through at least in or about October 2005, Hogan repeatedly had knowing association with the IBT Members. By initiating, inviting, receiving, and making himself available for phone calls and meetings with the IBT Members, after being barred from the Union, Hogan plainly aided, abetted, and caused the IBT Members' violation of the Consent Decree.

4. The Defendant Should Be Punished For His Criminal Contempt

Here, Hogan's conduct, and that of the IBT Members, blatantly violated the Consent Decree imposed by the Court. Under the Constitution, a punitive sentence of imprisonment in excess of six months cannot be imposed unless the contemnor is afforded a jury trial. See Muniz v. Hoffmans, 422 U.S. 454, 475-76 (1975); Frank v. United States, 395 U.S. 147, 150-51 (1969); United States v. Twentieth Century Fox Film Corp., 882 F.2d 656,

662 (2d Cir. 1989). In the instant case, the Government is seeking to have the defendant's conduct treated as a "petty offense" with a maximum term of imprisonment of six months and a maximum fine of \$5,000.

In fashioning appropriate punishment, this Court may consider the consequences of Hogan's contempt, as well as the importance of deterring similar future conduct by Hogan and others in the future, see United States v. Mine Workers of Am., 330 U.S. 258, 303 (1947), two factors of serious import here. To date, the Consent Decree process has succeeded in permanently removing more than 300 people from the IBT. Those successes, however, require continued vigilance by the parties and a sustained commitment by the Court. By associating with members of the IBT, barred members such as Hogan attempt to continue to influence union affairs and thus evade the substance of the disciplinary action imposed against them by the IBT pursuant to the Consent Decree. They also induce current members to violate the Consent Decree prohibition, exposing the current IBT members to both the threat of the corrupting influence posed by these barred members and to potential disciplinary action for their own knowing association. Indeed, Hogan's associations with the IBT Members have resulted in each of those Members being suspended or expelled from the IBT.


C. Conclusion

For the foregoing reasons, the Court should issue an Order to Show Cause why William T. Hogan, Jr. should not be adjudged in criminal contempt.

Dated: New York, New York
April 27, 2007

Respectfully submitted,

MICHAEL J. GARCIA
United States Attorney

By:  _____
Benjamin Gruenstein
Danna Drori
Assistant United States Attorneys
Tel. No.: (212) 637-2315/2689

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA, : 07 Cr. Misc. ___ (LAP)
 :
 - v. - : 88 Civ. 4486 (LAP)
 :
 WILLIAM T. HOGAN, JR., : DECLARATION OF
 : DANNA DRORI
 Defendant. :
 :
-----X

DANNA DRORI, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am an Assistant United States Attorney in the office of Michael J. Garcia, United States Attorney for the Southern District of New York. I respectfully submit this affidavit in support of the Government's application pursuant to Rule 42(a) of the Federal Rules of Criminal Procedure for an Order to Show Cause why defendant William T. Hogan, Jr. ("Hogan") should not be adjudged in criminal contempt.

2. The Government will proceed in this action pursuant to the accompanying Notice of Charge as a petty offense punishable by a maximum sentence of imprisonment of not more than six months, a fine of not more than five thousand dollars, and a special assessment of ten dollars.

3. No prior application for this relief has been made.

PROCEDURAL BACKGROUND

4. On June 28, 1988, the Government filed an action under the civil remedies provision of the Racketeer Influenced and

Corrupt Organizations Act ("RICO"), 18 U.S.C. § 1964, against the International Brotherhood of Teamsters (the "IBT" or "Union"), its General Executive Board ("GEB"), the eighteen members of the GEB, the Commission of La Cosa Nostra, and various members and associates of La Cosa Nostra ("LCN"). Alleging that LCN had dominated the IBT through a pattern of racketeering activity, the complaint sought extensive equitable relief to eradicate LCN's influence over the Union and to rid the Union of corruption.

5. On March 14, 1989, this Court (Edelstein, J.) approved a Consent Decree that resolved the Government's claims against the IBT defendants. The Consent Decree instituted sweeping structural reforms of the IBT's electoral and disciplinary processes with the goals of eradicating corruption and LCN influence from the IBT and establishing a culture of democracy for the benefit of the members.

6. The Consent Decree provided initially for the appointment of three officers to carry out its terms: (i) an Investigations Officer to investigate corruption and misconduct within the IBT and its affiliates and to bring disciplinary charges under the IBT Constitution; (ii) an Election Officer to oversee the election of IBT International Union officers and trustees; and (iii) an Independent Administrator to oversee the activities of the other two officers, to hear and decide union disciplinary charges brought by the Investigations Officer, and

to review certain activities of the IBT. Pursuant to the terms of the Consent Decree, the authority of the Investigations Officer and Independent Administrator terminated on October 10, 1992. See United States v. IBT ("Webster Appointment"), 12 F.3d 360, 362 (2d Cir. 1993).

7. Following certification by the Election Officer of the results of the IBT's 1991 election, the Consent Decree provided for the establishment of a three-member Independent Review Board ("IRB") to continue the disciplinary reform begun by the court-appointed Investigations Officer and Independent Administrator. "The IRB is a permanent institution vested with power to investigate and eradicate corruption, and to monitor the IBT's attempts to eradicate corruption." United States v. IBT ("IRB Rules"), 803 F. Supp. 761, 780 (S.D.N.Y. 1992), aff'd as modified, 998 F.2d 1101 (2d Cir. 1993). The IRB is vested with broad investigatory and disciplinary powers delegated by the officers of the IBT.

8. In addition to establishing internal reforms within the IBT, the Consent Decree also contains a permanent injunction that is designed to protect members of the IBT from corrupting outside influences. United States v. IBT ("Carey & Hamilton"), 22 F. Supp. 2d 135, 145 (S.D.N.Y. 1998), aff'd, 247 F.3d 370 (2d Cir. 2001). Specifically, Paragraph E(10) of the Consent Decree permanently enjoins all current and future IBT officers,

representatives, members, and employees from knowingly associating with any organized crime figure or "any person otherwise enjoined from participating in union affairs." For purposes of the Consent Decree's associational ban, a person is considered to have been "enjoined from participating in union affairs" if he is either subject to a court order enjoining his participation in the affairs of the IBT or another union, see United States v. Mason Tenders District Council, 205 F. Supp. 2d 183, 190 (S.D.N.Y. 2002), or has been permanently barred from membership in the IBT "pursuant to the disciplinary process established in the [C]onsent [D]ecree," United States v. IBT ("Sombrotto"), 266 F.3d 45, 49-50 (2d Cir. 2001).

9. "Prohibited knowing association . . . is established when contact is purposeful and not incidental or fleeting." United States v. IBT, 824 F. Supp. 410, 414 (S.D.N.Y. 1993), aff'd, United States v. IBT ("DiGiriamo"), 19 F.3d 816 (2d Cir. 1994). "Purposeful contacts are prohibited even if no illegal purpose is demonstrated[, and p]urposeful contacts may occur in either a business or social setting." Id. (citations omitted). Knowing association may be inferred from the "duration and quality" of the association. United States v. IBT ("Senese & Talerico"), 745 F. Supp. 908, 918 (S.D.N.Y. 1990), aff'd, 941 F.2d 1292 (2d Cir. 1991); United States v. IBT ("Cozza"), 764 F. Supp. 797, 812 (S.D.N.Y. 1991), aff'd, 956 F.2d 1161 (2d Cir.

1992).

THE ORDER PERMANENTLY EXPELLING HOGAN FROM THE IBT

10. On May 29, 2002, following a two day hearing before the IRB, the IRB permanently barred Hogan from IBT membership for having brought reproach upon the IBT and violating the IBT Constitution by colluding with a non-union employer to enter into a sub-standard contract with IBT Local 631, to the detriment of IBT members. Prior to his expulsion, Hogan had been member of the IBT for approximately 40 years, during which time he held several high-ranking positions in the IBT, including IBT International Representative, President of IBT Joint Council 25, Director of Organizing and Political Director of IBT Local 714, Secretary-Treasurer and principal officer of Local 714, and Vice President of IBT Local 179. See, e.g., United States v. IBT (Hogan & Passo), No. 88 Civ. 4486 (LAP), 2003 WL 21998009, at *1 (S.D.N.Y. Aug. 22, 2003).

11. As a result of the IRB's decision to permanently bar him from IBT membership, Hogan is "enjoined from participating in union affairs." Sombrotto, 266 F.3d at 49-51. Accordingly, as of May 29, 2002, all current and future IBT officers, representatives, members, and employees were prohibited from knowingly associating with Hogan. See Consent Decree ¶ E(10); see also IRB Rules ¶ K(1) ("A decision of the IRB after hearing shall be final and binding.").

12. The IRB Rules provide that IRB decisions are to be entered "as an order of the [District] Court." IRB Rules ¶ K(1). The IRB submitted Application Number 102 to this Court seeking entry of its May 29, 2002 decision as a court order. On August 22, 2003, this Court (Preska, J.) entered the IRB's decision as a court order. See Hogan & Passo, 2003 WL 21998009. The United States Court of Appeals for the Second Circuit affirmed that decision on September 23, 2004. See United States v. Hogan & Passo, 110 Fed. Appx. 177 (2d Cir. 2004).

13. Hogan had notice of the IRB's May 29, 2002 decision. On July 3, 2002, counsel for Hogan filed a memorandum of law objecting to the IRB's Application Number 102. See Docket Entry #3707, 88 Civ. 4486 (S.D.N.Y.) ("Objection by William T. Hogan, Jr. to Application 102 of the Independent Review Board"). In that memorandum of law, Hogan acknowledged (through counsel) that the IRB's decision prohibited Hogan, among other things, "from fraternizing with IBT members." Id. at 33.

14. Hogan also had notice of this Court's August 22, 2003 Order, as indicated by his September 22, 2003 appeal of that Order to the United States Court of Appeals for the Second Circuit. See Docket Sheet, 03-6196-cv (2d Cir.). Among other things, Hogan's brief to the Second Circuit argued that "the IRB's punishment effectively ostracizes Hogan, prohibiting his lifelong friends and business partners even from fraternizing

with him."

HOGAN'S CRIMINAL CONTEMPT

15. Upon information and belief, and based upon materials provided by the Chief Investigator's Office of the IRB, including but not limited to deposition transcripts, transcripts of hearings before the IRB, and telephone records, Hogan has knowingly associated with IBT officers, representatives, members, and/or employees since he was permanently barred from the IBT on May 29, 2002. Those contacts include the following:

Contact with Joseph L. Bernstein

16. Hogan knowingly associated with Joseph L. Bernstein ("Bernstein") while Bernstein was an IBT member as well as President of IBT Local 781 and an officer of Joint Council 25.

17. On October 28, 2003, according to the observations of an investigator working for the IBT and corroborated by Bernstein's sworn testimony, Hogan and Bernstein met for almost three hours at the Black Ram restaurant in Des Plaines, Illinois. Bernstein also testified that he had telephoned Hogan at home earlier that morning to invite him to lunch. Telephone records confirm a four-minute call from Bernstein's Local 781 cellular phone to Hogan's home telephone number on the morning of October 28, 2003.

18. On November 4, 2003, seven days after Hogan and Bernstein met on October 28, 2003, a Joint Council 25 nominations

meeting was held, at which time Hogan's son Robert Hogan was nominated for the Recording Secretary position on the Joint Council.

19. According to Bernstein's testimony, he also had contact with Hogan on two occasions in 2004. First, Bernstein testified that he and Hogan spoke for a few minutes at a cocktail party during the AFL-CIO's 2004 winter meetings in Florida. Second, Bernstein testified that during a golf outing in July 2004, he had intentional contact with Hogan, namely he and Hogan ate lunch at the same table at an outdoor patio buffet. According to Bernstein's testimony, he had been invited to the golf outing by Hogan's son Robert Hogan, who was then secretary-treasurer of IBT Local 714.

20. On October 11, 2005, the IRB issued a decision which found that Bernstein had violated Paragraph E(10) of the Consent Decree by knowingly associating with Hogan. As a sanction, the IRB permanently barred Bernstein from the IBT. This Court affirmed the IRB's decision on December 16, 2005. See Docket Entry #3912, 88 Civ. 4486 (S.D.N.Y.) ("It is hereby ordered that application no. 119 of the IRB regarding the charges and sanctions imposed against Joseph L. Bernstein is GRANTED and the IRB's decision is entered as an order of the Court.").

Contact with John Kikes

21. Hogan knowingly associated with John Kikes ("Kikes")

while Kikes was an IBT member as well as President of IBT Local 78 and an International Representative.

22. According to Kikes' sworn testimony, after Hogan had been barred from the IBT, Hogan left Kikes a telephone message giving him Hogan's new private mobile telephone number. Telephone records indicate that between August 4, 2002 and December 11, 2003, Hogan called Kikes' mobile telephone from that private mobile telephone number at least six times, and that Kikes called Hogan's private mobile telephone number at least 14 times. The calls ranged in length from two to 21 minutes. Kikes's sworn testimony included descriptions of the substance of several of those telephone calls.

23. On January 18, 2006, the IRB issued a decision which found that Kikes had violated Paragraph E(10) of the Consent Decree by knowingly associating with Hogan. As a sanction, the IRB permanently barred Kikes from the IBT. The IRB submitted the decision to this Court as Application Number 121. The application is sub judice before this Court.

Contact with Jerry Vincent

24. Hogan knowingly associated with Jerry Vincent ("Vincent") while Vincent was Secretary Treasurer and principal officer of IBT Local 783, President of Joint Council 94, and President of the Kentucky and West Virginia Conference of Teamsters.

25. Telephone records show that Vincent placed a call to Hogan from Local 783 on February 18, 2004, which lasted fourteen minutes. In sworn testimony, Vincent confirmed that he had called and spoken to Hogan on that occasion.

26. On June 15, 2004, telephone records show that there was a 10 minute call from Local 783 to Hogan, which Vincent admitted in a submission to the IRB was a call he directed a Local 783 subordinate to make to Hogan.

27. On June 12, 2006, the IRB issued a decision which found that Vincent violated Paragraph E(10) of the Consent Decree by knowingly associating with Hogan. As a sanction, the IRB suspended Vincent from IBT membership for a period of five years. The IRB submitted the decision to this Court as Application Number 125. The application is sub judice before this Court.

Contact with Robert Riley

28. Hogan knowingly associated with Robert Riley ("Riley") while Riley was an IBT member as well as business representative and Director of Organizing for IBT Local 714.

29. During the period between November 17, 2003 and June 28, 2004, telephone records show that: (i) Riley made at least 59 calls to Hogan's cellular telephone, of which 39 calls were longer than three minutes; and (ii) Hogan made at least six calls to Riley's residence and 47 calls to Riley's cellular telephone, of which 17 calls were longer than three minutes.

30. According to Riley's sworn testimony, he visited Hogan's home or Hogan visited him at his home several times a month during 2005.


31. According to Riley's sworn testimony, he and Hogan took at least two overnight business trips together to New Jersey, in April 2005 and in October 2005.

32. On April 19, 2006, the IRB issued a decision which found that Riley had violated Paragraph E(10) of the Consent Decree by knowingly associating with Hogan. As a sanction, the IRB permanently barred Riley from the IBT.

33. By reason of Hogan's contacts with Bernstein, Kikes, Vincent, and Riley after Hogan's expulsion from the IBT on May 29, 2002, Hogan aided, abetted and caused Bernstein, Kikes, Vincent, and Riley to violate Paragraph E(10) of the Consent Decree, and thereby acted in criminal contempt of the authority of the United States District Court for the Southern District of New York, in violation of 18 U.S.C. § 2(a), 2(b), and 401(3).

WHEREFORE the Government respectfully requests that the Court sign the attached Order to Show Cause directing William T. Hogan, Jr., the defendant, to show cause why he should not be held in criminal contempt.

Dated: New York, New York
April 27, 2007



DANNA DRORI
Assistant United States Attorney
Telephone: (212) 637-2689