

# Ten Years Of Court-Supervised Reform: A Chronicle And Assessment

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## I. Introduction

¶1 Since the Newark (federal) Organized Crime Strike Force brought the first civil RICO suit against an organized-crime dominated union in 1982,[1] the Department of Justice has brought approximately twenty more suits against mobbed-up locals, district councils, and international unions.[2] The government has prevailed in each of these suits, usually by means of a negotiated settlement that results in a court-appointed trustee designated to purge organized crime's influence from the union and restore union democracy. Taken together, these suits may constitute the most ambitious effort at government-sponsored court-supervised organizational change in U.S. history. They also provide an important test of the effectiveness of a new form of non-traditional law enforcement that relies on civil remedies rather than on prosecutions. Strangely, however, this massive legal effort has attracted little attention from labor law or criminal law scholars.[3] Consequently, we know practically nothing about what works and what does not work in reforming mobbed-up unions. This article seeks to begin documentation and analysis of this extraordinary chapter in U.S. labor and law enforcement history through a case study of one large organized crime-controlled union, the New York City District Council of Carpenters ("District Council").

¶2 Organized crime penetrated the District Council through the District Council's some two dozen constituent locals, several of which have documented histories of organized crime infiltration and even domination.[4] What is also noteworthy is that at least four La Cosa Nostra (LCN) organized crime families (Colombo; DeCavalcante; Gambino; Genovese) have exerted influence over the District Council's local affiliates. In the early 1970s, Genovese capo Pete DeFeo and his lieutenant, Alexander Morrelli, represented the Genovese Family's interest in the District Council. By the late 1970s, the Genovese Family's interest in the District Council was represented and expanded by Vincent DiNapoli, a capo in the crime family and a powerful figure in the drywall industry.

¶3 In 1976, Danny Evangelista was shot to death while sitting at his desk at Local 385 headquarters. Evangelista had opposed Genovese candidate Theodore Maritas' candidacy for the District Council presidency.[5] In 1978, Willie Nordstrom, president of Local 488, was shot to death.[6] Nordstrom was a "dissident" who vociferously criticized the union's leadership. In 1981, the home of Shaun Toner was firebombed. Toner was an open critic of the officers of Local 17 and of the District Council.[7] In July 1984, Gaetano Macaluso was attacked with an iron pipe.[8] Macaluso was a dissident in Local 531. In 1988, Genovese Family associates beat up Marcello Svedese, treasurer of Local 17.[9] In 1989, Thomas Maikowski, who opposed Edward Walaski's candidacy for business agent of Local 531, was stabbed outside a union nominating meeting.[10]

¶4 The FBI's and U.S. Department of Justice's (DOJ's) crackdown on organized crime resulted in convictions of a number of Carpenter Union officials and organized crime figures, including those in Table I of the Appendix.[11] In 1986, the President's Commission on Organized Crime concluded that LCN exerted pervasive influence over the District Council.[12] In 1987, John O'Connor, a top official in Local 608, one of the District Council's constituent locals, was indicted on 127 counts of bribery and extortion.[13] He was convicted in 1990 of a lesser number of labor bribery counts and was sentenced to one to three years in prison. In 1988, Vinnie "The Fish" Cafaro, a member of the Genovese Crime Family who became a government cooperating witness, told the U.S. Senate Permanent Subcommittee on Investigations that the Genovese Family controlled the District Council.[14]

¶5 In 1990, the U.S. Attorney for the Southern District of New York, brought a civil RICO suit against the officers of the District Council and organized crime figures who allegedly exerted influence on the District Council. In addition to broad discovery opportunities and a lower burden of proof, one great advantage of the civil RICO suit was the possibility of obtaining wide-ranging equitable relief, including a court-appointed trustee empowered to reform the union.[15] The civil RICO complaint against the District Council alleged that the union was being run on behalf of organized crime.[16] It described the manner in which the District Council was dominated by the Genovese Crime Family and the large profits that LCN derived from illegal payoffs for labor peace. It asserted that "[c]orrupt officers have systematically traded the union members' contractual rights in return for the officers' personal gain" and that "economic coercion, threats, violence and the known ties between union officers and organized crime" silenced the opposition of the rank and file to such an extent that "the members have been deprived of their right to participate in and control their union." [17]

¶6The suit was resolved by a settlement providing for a court-appointed trusteeship over the union.[18] For almost six years, the trustee (known as the Investigative Reporting Officer) investigated the District Council, brought disciplinary charges against mob-associated members, sought to reform the hiring hall, and conducted the first rank and file election in District Council history. In 1999, the court found that the trusteeship had succeeded and restored the union to self-governance. However, a number of investigations and criminal prosecutions since then suggest that the District Council continues to be plagued by corruption and racketeering.

¶7Part II of this article provides a background on the nature, depth, and extent of racketeering in the District Council. It also examines in detail the civil RICO suit, the consent decree, and the trustee's efforts to reform the union. Part III analyzes the successes and failures of the court-appointed trusteeship over the District Council. Furthermore, it draws some lessons about the potential and limits of court-supervised strategies for reforming corrupted organizations generally. Part IV concludes this article by suggesting future actions necessary to reform the District Council fully and by highlighting the need for further documentation and analysis of this subject matter.

## II. The Case Study: The New York City District Council of Carpenters

### A. Background

¶8The United Brotherhood of Carpenters (UBC) International Union, headquartered in Washington, D.C., has approximately 520,000 members in the U.S. and Canada.[19] Its Constitution requires a regional ("district") council whenever two or more locals exist in the same locality.[20] Each district council has its own by-laws, officers, treasury and jurisdiction over contracts, grievances, and benefit funds. The affiliated local unions elect delegates to the district council in proportion to the size of their memberships.[21]

¶9The District Council, located in Manhattan, is one of New York City's largest unions, representing approximately 30,000 members.[22] At the time the U.S. Attorney's Office brought the 1990 civil RICO suit, the District Council negotiated, implemented, and enforced collective bargaining agreements, and handled disputes, grievances and arbitrations on behalf of 22 local unions.[23]

¶10The District Council's collective bargaining agreements require employers to make contributions on behalf of their union-member employees to pension and welfare funds. While these funds are governed by an equal number of employer-appointed and union-appointed trustees, in reality, the District Council controls and administers these funds. These funds include: the New York City District Council of Carpenters' Pension Fund; Welfare Fund; Vacation Fund; Annuity Fund; Apprenticeship, Journeyman Retraining, Educational and Industry Fund; Supplemental Fund; and the Retirement and Pension Plan Fund.[24] These funds are worth hundreds of millions of dollars and are attractive targets for racketeers.[25]

¶11Until the 1990 civil RICO settlement was implemented, all District Council officers also served as officers in their home locals.[26] For example, Frederick Devine, president of the

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District Council (1991-96), also served as president of Local 1456.[27] John Abbateamarco, the District Council's first vice president, also served as Local 257's vice president.[28]

¶12The Genovese Crime Family controlled the District Council through its capo, Vincent DiNapoli. According to the FBI, Teddy Maritas, District Council president from 1977 to 1981, was a Genovese Crime Family associate.[29] Eventually, Maritas disappeared. Presumably, he was murdered because the organized crime bosses suspected that he was cooperating with federal prosecutors. Thereafter, the mob continued its control over the District Council through Paschal McGuinness, president from 1982 to 1991, and then Fred Devine, president from 1991 to 1996.

¶13The Genovese Family maintained its grip on the District Council by intimidation and violence and by its control over carpenters' job opportunities. Because construction work is usually short term, carpenters often depend upon their union to get them jobs. Since collective bargaining agreements require contractors to call the union's hiring hall when they have a construction contract to perform, the union can blackball "troublemakers" and reward loyal supporters through its control of choice job assignments.[30]

¶14For many years, the Genovese Crime Family used the District Council to create and maintain a drywall cartel.[31] The union could thwart uncooperative contractors (who failed to pay off organized crime) from performing their contracts by assigning incompetent workers, calling strikes and slowdowns, picketing, or otherwise sabotaging the worksite. What is more, the cartel rigged bids, allocated contracts, and fixed prices.

¶15In the early 1980s, a federal RICO prosecution of Maritas, DiNapoli and others based on the drywall cartel resulted in a mistrial.[32] The jury hung 10-1 for conviction.[33] On the evening before the scheduled retrial in March 1982, Maritas disappeared.[34] DiNapoli plead guilty. While DiNapoli served a five year prison term, his brother, Louis, represented the Genovese Crime Family's interest in the District Council. Soon after DiNapoli's release from prison, he was tried and convicted in the "Commission case," and this time he was sentenced to one hundred years in prison.[35]

¶16UBC International placed the District Council under trusteeship.[36] Allegedly with organized crime's blessing, Pat Campbell was appointed trustee.[37] He reorganized the New York City locals. For example, he merged four locals to create Local 17 and purposefully or inadvertently consolidated the Genovese Family's influence over jobs in upper Manhattan and the Bronx.[38] Campbell also chose Local 608 president Paschal McGuinness, a Genovese Crime Family associate, to be the new District Council president.[39] McGuinness placed John O'Connor in charge of the District Council's daily operations. O'Connor was subsequently charged with 127 counts of racketeering,[40] and, in 1990, he pled guilty to receiving a bribe from an employer. He was sentenced to one to three years in prison and fined \$25,000.[41]

¶17Violence and corruption flourished under McGuinness's presidency. According to the U.S. Attorney, when the Javits Exhibition Center opened in Manhattan in 1986, McGuinness gave preference to Genovese Family associates for high paying and desirable Center jobs.[42] Six out of ten violent acts, which were later cited as predicate offenses in the 1990 civil RICO suit,

occurred during McGuinness' presidency, including an assault with an iron pipe against a dissident member at a job site and the non-fatal shooting of John O'Connor.[43] Further, McGuinness himself allegedly committed seven of the racketeering acts listed in the civil RICO complaint. All involved bribery. In a deposition, Marcello Svedese, a District Council officer from 1981 to 1989 and a cooperating government witness, explained McGuinness' ties with organized crime:

¶18I have known Paschal McGuinness to associate with various organized crime figures in connection with the District Council. I was present at a meeting between McGuinness and Louis DiNapoli, a made member of the Genovese Family, and I have discussed organized crime and the District Council with McGuinness on many occasions.[44]

## B. The 1990 Civil RICO Suit and Settlement

### 1. The Suit

¶19In September 1990, the U.S. Attorney for the Southern District of New York, filed a civil RICO[45] complaint against the District Council, its former and current officers, and six LCN figures.[46] The complaint named the District Council, its constituent local unions, and its benefit funds as the RICO enterprise.[47] It alleged two separate RICO violations: (1) that the LCN defendants, aided and abetted by past and present District Council officers, violated RICO by acquiring an interest in and control over the union through a pattern of racketeering activity,[48] and (2) that the defendants participated in the affairs of the union through a pattern of racketeering activity.[49]

¶20The first RICO charge alleged that “the defendants . . . unlawfully . . . affect[ed] commerce . . . by extortion . . . in that they obtained and attempted to obtain property.”[50] The “property” that the defendants allegedly “obtained and attempted to obtain” included the union members' Landrum-Griffin-guaranteed rights, such as the right to elect officials and the right to free speech.[51] In other words, the government alleged that LCN labor racketeers and union officials committed Hobbs Act extortion when union members were forced, through violence and intimidation, to surrender their rights to union democracy.[52] The complaint listed 54 predicate acts that constituted a pattern of racketeering activity and contributed to a climate of intimidation and fear among the rank and file members of the District Council, thereby enabling the defendants to acquire an interest in the union.[53] These acts included murders;[54] assaults with firebombs, iron pipes, brute force, knives and guns;[55] appointments to union leadership positions of inexperienced, incompetent and corrupt individuals;[56] union officials' associations with known organized crime members;[57] the defendant union officers' failure to take action to rid the union of corruption;[58] and abuse of union office.[59] The government also charged the defendants with conspiracy to violate RICO § 1962(b).[60]

¶21The second RICO charge was based upon § 1962(c) (participating in the affairs of an enterprise through a pattern of racketeering activity) and it cited 54 predicate racketeering acts[61] including extortion,[62] illegal labor payments,[63] mail fraud,[64] and unlawful welfare payments.[65] The government also alleged that the defendants were guilty of violating § 1962(d) by conspiring to violate § 1962(c).[66]

¶22The government sought preliminary and permanent injunctions (1) to prohibit organized crime defendants Anthony Salerno, Vincent DiNapoli, Louis DiNapoli, Peter DeFeo, Alexander Morelli, Liborio Bellomo and all others in active concert or participation with them from having contact with the District Council or any other labor organization; (2) to enjoin current, former and future officers of the District Council and those participating with them from committing any acts of racketeering activity[67] and from associating with any member or associate of LCN; (3) to appoint a court liaison officer to have all necessary authority to prevent racketeering activity[68] and to ensure union democracy; (4) to enjoin all members and officers from interfering with the court liaison officer's execution of her duties; and (5) to grant the government further preliminary relief as is necessary.[69] The government also sought a court-implemented election of District Council officers.[70]

## 2. The Settlement

¶23The trial began on September 13, 1993 and continued through October 18, 1993, when it was temporarily recessed.[71] In March 1994, the parties reached a settlement, the terms of which are manifested in a consent decree.[72] The U.S. Attorney agreed to drop the civil RICO complaint in exchange for significant District Council reforms designed to purge organized crime and promote union democracy. The parties agreed that the consent decree's dominant purpose was to ensure a democratic union and, toward that end, that there should not be any criminal element or LCN corruption in the District Council and its constituent locals. All union officers were permanently enjoined from: (a) committing any act of racketeering activity as defined by the RICO statute; (b) knowingly associating with any member or associate of any LCN crime family or any other criminal group, or with any person prohibited from participating in union affairs; and (c) obstructing or otherwise improperly interfering with the court-appointed officer's efforts to enforce the consent decree.[73]

¶24The parties agreed that the consent decree would be implemented by a court-appointed Investigations and Review Officer ("IRO") and a five person "Independent Hearing Committee" ("IHC").[74] The consent decree named former Federal District Court Judge Kenneth Conboy[75] as the IRO and five individuals as the IHC.[76] The District Council would pay \$65,000 each month to cover the compensation and expenses of the IRO and the IHC.[77] If the IRO's expenses exceeded \$65,000, UBC International would contribute up to an additional \$15,000.[78]

¶25The IRO's powers included: investigating District Council operations and individuals; bringing disciplinary charges; exercising veto authority over officer decisions; recommending organizational reforms; formulating and implementing new job referral rules; and organizing and supervising the District Council's 1995 elections.[79] The IRO's decisions would be final and binding unless the court found them to be arbitrary and capricious.[80] The IRO's term of office was set at 30 months, renewable by the court for up to an additional six months upon a showing of good cause.[81] The IRO's supervisory authority over elections would terminate after certification of the 1995 election results.[82]

¶26The IRO could initiate a disciplinary action against a union officer or member by serving a written and specific charge on that person.[83] Within a week after service of the charge, a panel composed of three IHC members would be selected. The IRO would choose one panel member, the charged party would choose another, and the two members would choose the third member.[84] A hearing would be conducted within 30 to 60 days according to the rules and procedures applicable to labor arbitration hearings.[85]

¶27In order to “eliminate the corruption, favoritism and cronyism that existed under the old system,”[86] the consent agreement further required that within 30 days each local union within the District Council implement new job referral rules.[87] These new rules had to include: non-discriminatory and non-exclusive[88] job referrals; a method of registering members’ availability for job referral; a procedure that refers jobs to members whose names have been on the waiting list the longest; effective dissemination of the job referral rules; maintenance of accurate job referral records; and member access to job referral information.[89]

¶28The consent decree ended the long-time practice of union officials drawing two salaries—one as an officer of their local and one as an officer of the District Council.[90] The decree also required the District Council, for a period of seven years, to give prior written notice to the government and to the IRO of changes in any rules or procedures adopted or implemented pursuant to the consent decree.[91]

¶29The consent decree authorized the IRO to implement and supervise the first rank and file election of District Council officers in that union’s history.[92] Toward that end, IRO Conboy would draft rules for conducting a secret-ballot election, including guidelines for “nomination of candidates, dissemination of information about nominated candidates to the membership at union expense, and the conduct of the final secret ballot election.”[93] Additionally, the consent decree empowered the IRO to hire or designate other persons or entities to assist in carrying out the rules,[94] to resolve all election disputes, and to certify the election results. [95]

¶30To summarize, the consent decree empowered the IRO:

- to initiate and serve disciplinary charges against any member of the District Council and its constituent locals for any matter constituting an offense under any applicable law, union constitution, by-law, working rule or obligation;
- to take such reasonable steps as are lawful and necessary to be fully informed about the activities of the District Council;
- to study the operations of the District Council and its locals and recommend changes to improve those operations (including but not limited to the procedures used to investigate and discipline misconduct and those used to fill vacancies in union offices);
- to supervise the adoption, implementation and operation of the job referral rules;
- to supervise all phases of a secret ballot election of the District Council Executive Board scheduled for June 1995 and any special elections that might occur before then;

to employ or engage the services of any personnel necessary to assist in the proper discharge of the IRO's duties.[96]

### C. Implementing the Consent Decree

¶31 IRO Conboy announced three basic objectives for the trusteeship: to cleanse the union of corrupt individuals; to reform the job referral system; and to conduct a direct rank and file election.[97] Recognizing the importance of obtaining rank and file support, he addressed an open letter to the membership in the union's newsletter, *The Carpenter*, explaining his responsibilities and his goal of returning a reformed union to the membership: "I hope to have your support and cooperation as I oversee the enactment of these important reforms over the coming months. I would also encourage any member to contact me . . . on an entirely confidential basis, with any suggestions or information that would enable me to perform my duties more effectively." [98] Subsequently, the District Council sought to stop Conboy from publishing in *The Carpenter* reports that cast the union's officers in a bad light. Judge Charles Haight ruled in Conboy's favor.[99]

¶32 The new job referral rules referred union members to jobs according to the length of their unemployment. Conboy and his staff had to spend significant time attending local union meetings, answering questions, and making necessary adjustments. Five months after the rules were implemented, Conboy reported that complaints about job referrals had decreased dramatically.[100] He stated that "the rules are generally being followed most of the time." [101] However, some locals, especially Local 17, continued an "informal system" that referred the best jobs to favored members.[102]

#### 1. The Local 17 Trusteeship

¶33 Local 17, the largest local in the District Council, was created by the 1981 merger of four local unions, ostensibly in order to resist corruption and racketeering. Ironically, however, organized crime had a strong presence in Local 17 from the outset.[103] In 1987, a jurisdictional dispute occurred between the two Genovese Crime Family crews with influence over the District Council, Peter DeFeo's crew, and Liborio "Barney" Belommo's crew.[104] The Genovese Family consigliere awarded Bellomo's crew "jurisdiction" over Local 17.[105] The June 1989 election generated a slate of candidates consisting of Genovese Family associates. Enrico Ruotolo was elected business manager and, in 1992, selected as Local 17's delegate to the District Council.[106] The IRO's investigation of Local 17 illuminated the local's financial crisis, frequent job rule violations, and links to organized crime.[107] Conboy filed disciplinary charges against Ruotolo, alleging that he routinely associated with LCN members, lied about that fact in a deposition, referred union members to a nonunion contractor, fired one union member, threatened to move another union member to the bottom of the Local's work list in response to his recalcitrance, accepted a gift from a contractor, and referred ineligible union members to jobs.[108] He also requested that UBC International impose a trusteeship over Local 17. UBC's general president complied in April 1995[109] and appointed a trustee whom Conboy found cooperative.[110]

## 2. The Javits Center Investigation

¶34 Vincent “the Fish” Cafaro, a close ally of Genovese Crime Family’s acting boss “Fat Tony” Salerno, stated in a deposition in 1990 that “the Genovese crime family controlled the hiring of carpenters, first at the old exhibition center, the New York Coliseum, and later at the new exhibition center, the Javits Convention Center.”[111] In July 1994, Conboy began investigating LCN’s control over carpenters’ jobs at the Javits Center.[112] He soon determined that Anthony Fiorino[113] and Lenard Simon, the two District Council officers who represented the District Council at the Javits Center, filled all carpenter jobs at the Center from a “pool list” of 100 carpenters.[114] An investigation revealed that more than half of the individuals on the pool list had a criminal record, ties to organized crime, or both.[115] Fiorino and Simon were both associates of the Genovese Family; Fiorino was Genovese Family acting boss Barney Bellomo’s brother-in-law and Simon was Genovese Family capo[116] Ralph Coppola’s brother-in-law.[117] President Fred Devine, who himself had been linked to the Colombo Family,[118] appointed Fiorino and Simon to their positions.[119]

¶35 In September 1994, Conboy attempted to implement a non-discriminatory job referral system that would fairly assign Javits Center jobs.[120] Fiorino and Simon, with Devine’s support, opposed Conboy’s plan. They proposed instead that the collective bargaining agreement be amended to insulate the pool list from the job referral rules.[121] Devine refused Conboy’s demand to replace Fiorino and Simon. After some fruitless efforts at dispute settlement, Devine wrote a letter to Conboy cutting off negotiations.[122]

¶36 In October 1994, Simon resigned his position as head of carpenters at the Javits Center, but he remained there as a highly paid shop steward.[123] Conboy served Simon with notice of disciplinary charges alleging that he brought discredit to the union by using a pool list, allowing non-union-members to work at the Center, submitting a false application to the UBJCA, and receiving compensation from an employer in violation of the Taft-Hartley Act.[124] These charges led Simon to resign from the union.[125]

¶37 In December 1994, Conboy filed disciplinary charges against Fiorino, alleging eight violations of the UBC’s Standards of Conduct, including: knowingly associating with members of the Genovese Crime Family, discriminating against rank and file members,[126] threatening a union member with physical harm, acting on behalf of a contractor seeking to hire non-union members, participating in a labor bribery scheme,[127] allowing suspended men to work at the Javits Center, falsely representing his own qualifications as a carpenter when applying for union membership, and violating the District Council bylaw against invoking the Fifth Amendment before a committee of investigation.[128] The IHC panel that presided over the disciplinary hearings found most of the charges proved and decided that Fiorino should be expelled from the union for life.[129] Judge Haight affirmed.[130]

¶38 In light of the District Council’s and Devine’s unwillingness to reform job referrals at the Javits Center, Conboy filed an application with Judge Haight seeking an order to: (1) invalidate portions of the collective bargaining agreement governing District Council job referrals in the trade show industry and the manner by which the District Council’s representatives at the Center

are compensated; (2) require the District Council to refer trade show industry jobs in accordance with the Consent Decree; and (3) authorize the IRO to oversee District Council activities in the trade show industry.[131] Judge Haight again ruled in Conboy's favor.

¶39 Fiorino's disciplinary hearing was well-covered in the media. It generated political momentum to address the influence of organized crime at the Javits Center, which is owned and operated by a public corporation.[132] The Governor's office announced a plan for eliminating the Genovese Crime Family's control over carpenters' jobs at the Center. The plan called for the Center to hire its own permanent work force; workers would be screened for criminal records and ties to LCN.[133] In July 1995, current employees were forced to reapply for their jobs, and the Center accepted job applications from non-incumbents.[134] The Center hired five hundred workers, half of whom had not worked there before, and though new "exhibit workers" became members of the Carpenters Union, they were covered, as state employees, by a new collective bargaining agreement.[135] As a consequence, the Javits Center has experienced a "complete turnaround" and has been described as "an emerging 'hot' destination for conventions." [136]

### 3. The 1995 District Council Election

¶40 Consistent with its resistance to the trusteeship, the District Council claimed that in promulgating Final Election Rules (FERs), Conboy "exceeded his authority under the consent decree" and "abused his discretion in making injudicious decisions." [137] The District Council argued that the IRO's power to supervise the election did not include the right to run it, but merely to oversee the District Council's administration of it. In determining the intended meaning of "supervise" in the Consent Decree, Judge Haight looked to an earlier International Brotherhood of Teamsters (IBT) civil RICO case,[138] to the parties' intent in the consent agreement, and to the meaning of "supervise" in the Landrum-Griffin Act. Judge Haight held that the word should be interpreted broadly, and found that Conboy had not assigned himself too much power.[139] Furthermore, he held that none of the District Council's objections to the IRO's conduct of the election was valid.[140]

¶41 The District Council also objected to: the lack of exceptions to certain rules in cases of candidates running unopposed; providing candidates with access to union membership lists, including addresses; the expense of required mailings; the lack of restrictions on the content of campaign literature; the complexity of the rules; the method of listing candidates' names on the ballots; the confidentiality of nominating petitions; the prohibition on local unions' endorsements of candidates; the inclusion of the position of second vice-president; and in-person voting.[141] Judge Haight ruled against each of these objections, broadly concluding that none of Conboy's FERs was arbitrary or capricious in light of his having so conscientiously considered the comments regarding the draft FERs he received from District Council members and leaders.[142] He also ruled against Local 608's request to delay the election because "the Consent Decree was meant to eradicate corruption, not the inherent advantages attendant to incumbency." He stressed the importance of holding the election promptly so the results could be studied.[143]

¶42 Conboy drafted candidate eligibility requirements in order to keep corrupt candidates off the ballot. To be eligible to run for office, a candidate had to have been in good standing for 12

consecutive months prior to nomination and a member of the UBC for two consecutive years immediately prior to nomination and never to have been convicted of a crime that would make him or her ineligible to hold union office.[144] A member who satisfied the eligibility requirements had to submit to the IRO a nominating petition with at least 125 signatures of members in good standing.[145] Once the IRO certified his candidacy, the candidate would have access to membership meetings to give speeches and to membership lists in order to mail campaign literature to the rank and file.[146] Each candidate had the right, at his or her expense, to hire an observer to witness the distribution of campaign literature and to observe conduct at the polling site.[147] The rules provide candidates equal opportunity to mail campaign literature and to place campaign material in *The Carpenter*. [148] To promote fairness, Conboy limited campaign contributions to \$250 per member and mandated disclosure of campaign finances.[149] There would be in-person voting by machine ballot except that a member living 75 miles or more from headquarters could use a mail ballot.[150] The rules provided for an election committee to examine and approve the ballot and to be present when ballots were counted. Each nominated candidate could name one member in good standing to the election committee. The committee's decision would be subject to review by the Election Officer (an assistant appointed by the IRO) or the IRO.[151] The rules define election misconduct (including but not limited to voting fraud, ballot tampering, and forgery) for which the IRO can bring disciplinary charges.[152]

¶43The IRO rejected only two of nineteen prospective candidates' nominating petitions. Fifteen of the seventeen candidates who formally accepted nomination were affiliated with one of four slates. The Unity & Experience slate put forth candidates for all five executive committee positions (president, first vice president, second vice president, secretary-treasurer, and chairman of the trustees),[153] and included District Council incumbents Fred Devine and Robert Cavanaugh. The Membership's Choice slate also put forth candidates for all five positions. Conboy believed that its presidential nominee, Local 608 President Patrick Harvey, was the only one of three candidates with enough support to truly challenge Devine for the presidency. Harvey "could hardly be viewed as a reform candidate," however, because he invoked the Fifth Amendment during the 1990 RICO case and was connected to Pascal McGuinness.[154] The other two candidates for president also had blemished records: John Abbatemarco was an associate of Attilio Bitondo, a convicted briber, and John Greany had used three Social Security numbers.[155] Greany, however, ran as an anti-corruption candidate. His Carpenters for a Stronger Union slate (which also included nominees for second vice president and chairman of the trustees) promised to return the union to the membership by eradicating mob ties, reducing officer salaries, and creating a fair working environment. The American Dream slate promised that its candidates for first and second vice presidents would replace corruption with honesty.

¶44According to Conboy, his most important and time-consuming task with respect to the election was compiling a master list of eligible voters.[156] In 1994, the District Council provided him with a list of 40,000 names. After investigating, Conboy pared the list down to 16,719 union members in good standing.[157]

¶45Conboy hired a temporary staff to assist the IRO office with voting procedures.[158] The election was conducted primarily by voting machines.[159] No individuals, other than the temporary election staff and two election observers from each slate, were allowed into the voting

room.[160] 7,684 union members, about 46 percent of eligible voters, cast ballots. Each candidate on the Unity and Experience slate, which received 58.7 percent of the total vote, won his election, thereby returning to office incumbents and others associated with the clique that had long dominated the union.[161]

¶46 Each candidate was required to disclose information each month regarding campaign contributions, expenditures, legal services, and campaign bank accounts.[162] Not surprisingly, the Unity & Experience slate spent significantly more than its challengers. It reported spending over \$55,000 and receiving \$52,000 of donated legal services. It was principally financed by personal contributions from candidates on its slate.[163] The Membership's Choice slate, financed largely by contributions from slate members and Local 608 members, spent approximately \$35,000. John Abbatemarco, who was not affiliated with any slate, spent \$13,000 of his own money. The American Dream slate spent \$10,000, also of its candidates' own money.[164] The IRO's post-election report did not raise any questions about campaign donations or expenditures.

¶47 However, Conboy did find some election rule violations.[165] As chairman of the trustees of the benefit funds, incumbent District Council president and Unity and Experience candidate Fred Devine's responsibility was to ensure that the funds did not support or oppose any candidate. Conboy found that the funds' resources were used to retaliate against a candidate critical of Devine and to promote Devine's candidacy in a publication.[166] After a full hearing, Conboy concluded that Eugene Clarke had been fired because of his opposition to Devine's policies. Conboy ordered him reinstated and ordered Devine to reimburse the benefit funds \$5,760, the cost of the pro-Devine mailings.[167] Nevertheless, Conboy concluded that the 1995 election had been "honest and fraud-free"[168] and that Devine's two violations did not affect the election's outcome. Therefore, he certified the results.[169]

¶48 How can we explain the seemingly shocking victory of the same clique that had been mismanaging the District Council for many years? Labor racketeers are very deeply entrenched in mobbed-up unions. They rule by both sticks and carrots. The pervasive culture of intimidation may convince rank and file members that the mob-backed faction is too strong ever to be dislodged and that rebellion will ultimately be punished. Likewise, the labor racketeers operate a pervasive patronage system that provides many kinds of benefits to loyalists who then have a vested interest in the regime's continuation. In addition, many labor racketeers are charismatic personalities whom rank and filers find attractive. Finally, most union members are apathetic, paying little attention to union activities and personalities.[170]

#### 4. Other Investigations

¶49 After the election, Conboy's investigations continued. In 1996, his office charged five local union officers with improperly (under District Council bylaws) invoking the Fifth Amendment when questioned during the RICO suit. In 1997, four of them (including 1995 presidential candidate Patrick Harvey) resigned rather than go through the disciplinary hearing process.[171] (The fifth officer ultimately signed a settlement agreement barring him from union office for life.) [172]

¶50After Conboy's office received information about a member of Local 257 extorting payments from a contractor, his staff and the District Attorney's office persuaded the contractor to cooperate in an investigation. The union member was arrested in October 1996 when he was caught taking a subsequent payoff.[173] He was later convicted of misdemeanor charges and settled the IRO's charges by agreeing to be barred from union office.[174] Conboy also brought charges against a former delegate and trustee of Local 348 for refusing to give deposition testimony to the IRO's staff about his association with a Colombo family capo.[175]

¶51In 1997, the IRO's office began investigating the connections between two benefit funds employees and LCN members.[176] Also in that year, the IRO vetoed the purchase of expensive cars and life insurance policies for Local 135's business agents.[177] (UBC International subsequently imposed a trusteeship on Local 135.)[178] In April 1997, the IRO's office charged the president of Local 531 for interfering with the IRO's work and with purchasing a vehicle with union funds without following appropriate procedures.[179] The official accepted a settlement barring him from union office for life.[180] In 1998, a former Local 257 officer paid a fine to settle charges that he knowingly accepted shop steward referrals for which he was ineligible.[181] The former president of Local 257 was investigated for receiving illegal payments from contractors, violating District Council trade rules, and putting himself on the out-of-work list although he was employed at the time.[182]

¶52Conboy's office also found misconduct in the operation of the District Council's apprenticeship school. The school's funds were used to pay for expensive retirement gifts and apparently fraudulent consulting fees. The school's director also required school employees to carry out renovations on his home. Conboy reported to Judge Haight that these and other school expenditures constituted a pattern of unnecessary and lavish spending.[183]

##### 5. UBC International's Trusteeship over, and Restructuring of, the District Council

¶53Because the victors in the 1995 election represented the same faction that had been allied with organized crime for many years, Conboy encouraged UBC International President Douglas McCarron to impose a trusteeship on the District Council.[184] Conboy stated, "In light of such entrenched corruption, it was clear to us that the only realistic hope of returning the District Council to its membership required the intervention of the International." [185] He stressed the importance of replacing the District Council's incumbent officers with "strong and independent outside leadership." [186] McCarron complied on June 25, 1996, and appointed Douglas Banes as supervisor of the District Council.[187]

¶54UBC International's general executive board conducted a hearing, pursuant to the UBC constitution, to determine whether President McCarron had acted properly. Over 100 people testified, including Vice President Banes and IRO Conboy.[188] Conboy testified about Devine's taking cash payoffs, his appointment of Fiorino, his refusal to dismiss Fiorino, his corrupt job referrals, and his abuse of the chairmanship of the District Council's benefit funds.[189] The committee made various findings of wrongdoing. Among other things, it concluded that: Devine and the other officers mismanaged the District Council's cash reserve so that its net worth dropped from \$6.45 million in 1991 to \$224,060 in 1996; Devine spent \$389,000 on private jets in a period of 30 months; Devine supplied the staff with luxury cars and

paid twice what legitimate automobile dealers would charge; Devine's \$25,000 car allowance did not include gas, oil, maintenance or insurance; the union paid Devine's girlfriend \$60,000 as a "consultant;" Devine's chauffeur was paid \$60,000 a year out of trust fund money; and Devine used trust fund money to employ Genovese Family associates.[190] The hearing committee concluded that the trusteeship had been properly imposed and extended its duration.[191]

¶55 Devine and Cavanaugh filed a lawsuit against McCarron and Banes seeking to dissolve the trusteeship[192] which, they claimed, violated the UBC constitution and the Landrum-Griffin Act.[193] Judge Haight ruled that the Plaintiffs had the burden of showing "clear and convincing evidence that the trusteeship had not been established or maintained in good faith or for a legitimate reason." [194] When they subsequently attempted to produce such evidence, Judge Haight was not persuaded.[195]

¶56 The Banes trusteeship seemed to make some significant reforms aimed at remedying the financial crisis and combating corruption. Certain individuals tied to Devine, including his son[196] and Bernard Cohen, the District Council's general counsel, were terminated.[197] Devine was convicted on March 24, 1998 on six felony grand larceny counts for spending money from the union's operating and labor-management trust funds on personal goods and services.[198] Banes and his team moved to put the District Council back on sound financial footing by eliminating unnecessary and inflated salaries, cutting costs, and rationalizing operations.[199]

¶57 In May 1997, UBC International submitted to the IRO a tripartite plan to restructure the District Council. First, the plan called for the District Council to become a "Full Service District Council." This would mean that there would be centralized oversight over the District Council. Its officers would be accountable to a delegate body which would be elected by the rank and file. Second, the job referral system would be run by business agents employed by and subject to removal by the District Council. Third, some local unions would be merged.[200]

¶58 UBC International President Douglas McCarron said, in support of the plan, "Despite the [IRO's] supervision, the Consent Decree and federal investigations, corruption continues in many local unions throughout the District Council. Only a fundamental structural change . . . can eradicate the problem and return the Union to its members' control." [201] McCarron stated that the "membership has been poorly served by the present structure," and noted that the District Council had lost approximately 5,000 union members in 5 years, depleted its \$6 million treasury, and incurred over \$5 million in debt.[202] McCarron argued that greater concentration of authority was the only solution to the "splintered, whipsawed, and ineffective" power of the fragmented organization of the NYC District Council.[203] Lawsuits by local unions and individual carpenters significantly delayed the restructuring plan's implementation. Ultimately, the court held that the plan did not violate the consent decree[204] and that prior court approval of the restructuring plan was not required.[205]

¶59 UBC International's restructuring plan for the District Council included an election proposal more closely resembling the pre-consent-decree election procedures than Conboy's 1995 procedures. McCarron rejected Conboy's preference for direct rank and file election of Council officers, pointing out that the 1995 direct election had resulted in Devine's

reelection.[206] Under UBC International's restructuring plan, the District Council would employ the business agents and organizers, supervise their work, and coordinate all collective bargaining, contract enforcement, and organizing activities.[207] District Council officers would also have the option to merge trust funds.[208] According to McCarron, this plan constituted a form of representative democracy that gave members "increasingly meaningful participation because it makes their collective decisions and actions more viable in the industry and more productive in collective bargaining." [209] Some union members disagreed, labeling the consolidation of the District Council's power at the expense of the local unions anti-democratic.[210]

¶60 Conboy concluded that the selection of the executive committee by delegates rather than the rank and file might violate the consent decree, but he "broadly endorsed" the other election procedures.[211] Indeed, he applauded the reallocation of power to a District Council delegate body and an executive committee, opining that "a delegate body . . . would be a sound and positive reform . . . the openness and accountability of such a system would make it difficult for corrupt individuals to influence the affairs of the District Council, and would . . . protect . . . its members from exploitation and abuse at the hands of such members who may ascend to positions of managerial authority in the future." [212]

¶61 The IRO, the government, and counsel for UBC International met frequently to resolve differences of opinion. The final rules adopted McCarron's plan for a delegate body and executive committee, but provided for direct rank and file election of executive committee members. Except for the new delegate body, the rules of governance were similar to the 1995 rules. Each local union would elect a number of delegates based on that local's membership.[213] The executive committee would consist of one member from each local and the president, vice-president and executive secretary-treasurer. The election committee, consisting of one member from each local union, selected by majority vote,[214] would oversee elections,[215] select the election monitor, investigate charges of wrongdoing, and hold hearings on suspicious activity. Any party aggrieved by the committee's decision on an election-related matter could appeal to the election monitor.[216]

¶62 The government urged the judge to reject the proposed rules on number of delegates, multiple officeholding, nominating procedures, and access to the membership list. Furthermore, it argued for the use of nomination petitions to encourage individuals who, due to intimidation or fear, would prefer not to be nominated at a meeting and because of the importance of demonstrating membership support.[217] The IRO, who had required nominating petitions in the 1995 elections, now sided with UBC International, stating that the cost and time associated with petition drives outweighed speculative concerns about corrupt and non-bona fide candidates getting on the ballot.[218] Judge Haight approved the procedure for nominating candidates from the floor.[219] Despite the IRO's concern that lifting the cap on the number of delegates that any one local could elect[220] would "only serve to increase the already significant influence of the largest locals," Judge Haight concluded that a proportional delegate body would promote, not obstruct, union democracy.[221] He also agreed with UBC International that the distribution of membership lists, as the IRO proposed, could lead to intimidation of members, and he therefore deleted that part of the proposal.[222] UBC International argued that the ban on holding multiple offices should also be lifted because "through the vehicle of trusteeship, it has cleaned

out the Augean stables of those old days, so that no present circumstances exist which justify a continuation of that prohibition.”[223] Judge Haight, finding “it is too early to tell,” rejected the UBC’s position.[224]

6. Terminating the IRO and the UBC  
Trusteeship

¶63 In October 1996, the court approved another six-month extension of the IRO’s tenure. Due to the District Council’s shaky financial status, Conboy consented to a reduction in compensation from \$65,000 per month to \$45,000 and agreed not to seek further extensions.[225] On March 3, 1997, President McCarron, who was not precluded from seeking extensions, extended the IRO’s tenure through March 4, 1998. Then, pursuant to the Third Stipulation of Extension, the IRO’s tenure was extended to June 5, 1998. Finally, on June 4, 1998, the parties agreed to a final twelve-month extension.[226] One year later, Judge Haight wrote, “The District Council’s refusal to extend the IRO’s tenure means that the IRO will not be able to discharge the last vestiges of his previously delineated responsibilities. Accordingly, this is likely the last opportunity that the Court will have to address former Judge Conboy in a formal opinion. I seize the opportunity to thank him for his tireless and invaluable service to the parties and to the Court during the course of an arduous, complex and challenging case. The Court’s IRO has been the very model of a modern Court-appointed officer. Ave atque vale.”[227]

¶64 In 1999, UBC International dissolved its trusteeship over the New York District Council, stating that it had accomplished its goals.[228] In January 2000, almost ten years after the civil RICO case was filed, Michael Forde, the president of Local 608, was elected president of the District Council.[229] Ominously, perhaps, Forde’s father, who preceded Forde as president of Local 608, had been convicted of Taft-Hartley crimes a decade before.[230] Even more ominous, Conboy had charged Forde himself in May 1997 with violating job referral rules in assigning jobs to members of Local 608.[231]

III. Analysis

A. The Necessity and Difficulty of Evaluation

¶65 Evaluating the success of the RICO union trusteeships is essential. There is no point in bringing such suits, or at least in structuring such relief, if trusteeships do not solve the problems that provoked the suits in the first place. Moreover, in order to make sound decisions about how to attack corrupted unions and other organizations in the future, we should know what worked best in the past.

¶66 How do we define success? Do we mean whether the trusteeship achieved the goals set out in the consent decree? Some observers might conclude that while a trusteeship failed to meet all of the government’s goals, embodied in the consent decree, it did substantially succeed in achieving the most important goal: eliminating organized crime’s influence over union affairs.

¶67 Obviously, in the starkest terms, a trusteeship has not been successful if the union remains in the hands of, or under the influence of, organized crime or a clique that for many years was closely connected to organized crime. Contrariwise, a trusteeship that purges organized crime

figures and their allies from the union, institutes competitive elections, and achieves regime change can be called a success. However, in reality, analysis of union trusteeships does not lend itself to such black or white conclusions. The possibility of clandestine ties between union officials and organized crime impedes definitive scholarly evaluation of trusteeships in labor racketeering cases. While it is easy to determine that a major organized crime figure has been expelled from the union, it is very difficult to determine whether all organized crime associates have been expelled and whether those who have been expelled still directly or indirectly exert influence over union officers. FBI or Department of Labor agents may not even know whether such relationships continue. Relationships may be too well hidden. And, even if the agents do know, or at least believe that they know, they will almost certainly refuse to share such information with university-based researchers.

¶68 While evaluation is a hazardous undertaking and may be more art than science, it is essential for a policy initiative as important as the now 20-year-long effort to reform labor unions plagued by organized crime racketeering. The accumulation of studies like this one will make it possible to analyze, debate, and test what works and what does not work in the remediation of entrenched labor racketeering.

B. Successes and Failures

1. Successes

¶69 Conboy judged the trusteeship successful in purging the District Council of mob-affiliated and corrupt officials, conducting a free and fair election in 1995, cleaning up the Javits Center, and revamping the job referral system.

¶70 A number of officials connected to organized crime were purged from the union. Conboy filed disciplinary charges against many union officials reputed to be linked to organized crime, including Anthony Fiorino, Lenard Simon, and Enrico Ruotolo. Under the UBC International trusteeship, all of the 1995 incumbents, including President Fred Devine, were removed from office.

¶71 The 1995 election gave members the right to vote directly for officials. Free and fair elections are surely a prerequisite to reform mobbed-up unions. According to Conboy's reports, many union members welcomed direct voting as an important step in the direction of union democracy.

¶72 The job referral system has been improving, but it is not fixed. The changes to the hiring procedures at the Javits Center were thoroughly successful, but they impacted only some jobs held by union members. As for the remainder of job referrals, Conboy wrote in March 1996 that "it can safely be said, given the high volume of carpenters referred from the out-of-work lists, and diminishing number of complaints we receive concerning the referral process, that the average rank and file member has greatly benefited from the implementation of the job referral rules."<sup>[232]</sup> A year later, Conboy reported that complaints had declined to an average of two or three per month, which his office typically resolved informally.<sup>[233]</sup>

¶73 In July 2001, however, Eugene Clarke, a member of Local 608, filed a complaint with the District Council's executive committee alleging violation of referral rules in the Local's appointment of shop stewards. He complained that some employees who supported Michael Forde had received job assignments out of turn and that he had been passed over because of his public opposition to Forde.[234] Though the District Council did not admit wrongdoing, it agreed to change the job referral rules to require more oversight of shop steward appointments.[235] Pursuant to the same agreement, the District Council appointed former Assistant U.S. Attorney Walter Mack as Independent Investigator.[236] His responsibilities include operating a toll-free anti-corruption hotline and investigating allegations of violations of the job referral rules[237] in order to "improve the fair and equitable operation of those rules" and to "reduce the opportunity for their abuse and corruption." [238]

¶74 It is hard to say whether the reorganization that shifted power to the District Council at the expense of the locals should count as a success. We are inclined to think so because the District Council can be more easily monitored and held accountable for racketeering in its constituent locals. However, there are those who predict the opposite. A leading advocate for union democracy commented at a 1988 congressional hearing on union democracy:

¶75 The delegate system is no substitute for direct elections. A membership of thousands armed with the right to vote, cannot be easily manipulated by the officers above. But a delegated body of 150 can reasonably be dominated by an officialdom which dispenses favors and perks to only 76 lucky delegates. Direct elections allow the member-voters to control the officers. Election by delegates allows the officers to control the delegate-voters.[239]

¶76 The delegate system may be a step in the wrong direction for union democracy.[240]

## 2. Failures

¶77 Although the 1995 election appeared to be conducted fairly, Fred Devine was re-elected president, thereby perpetuating the old regime's control.[241] Fraud, corrupt practices, and racketeering continued. The IRO and UBC properly negated the 1995 election by imposing an International trusteeship on the District Council and terminating Devine. But in the 1999 election, Michael Forde's slate won. Just months later (on September 6, 2000), the Manhattan District Attorney charged Forde with taking bribes from a mobbed-up contractor in exchange for allowing the contractor to use nonunion labor on a hotel renovation project.[242] The 38 codefendants included union officers, contractors, and 11 reputed mobsters.[243] Steven L. Crea, the Lucchese Crime Family boss, was the leading organized crime figure among the defendants.[244] According to the District Attorney, the Lucchese Family extorted (or solicited bribes from) contractors by promising protection from other criminal extortions and by buying off corrupt union officials. Forde thus became the fourth consecutive District Council president since 1980 to be charged with labor racketeering.[245] Nevertheless, he was elected in 2002 as executive secretary treasurer (the new title for the top position in the District Council) with 80 percent of the vote.[246] A number of the defendants have pleaded guilty; Forde's case is still pending as of February 2004.

¶78The goal of the 1994 RICO suit, that organized crimes' influence be purged from the District Council, has clearly not been achieved. The alliance between labor racketeers and corrupt union officials has proved resilient and adaptable. As long as rank and file members see or perceive "business as usual" in the District Council, they will be cynical about prospects for reform and therefore unwilling to stand up against the old regime.

¶79Not only have the government, the court, and the court-appointed trustee been unable to end mob influence in the District Council, it has been unable to prevent LCN labor racketeers from expanding their influence to Westchester County (just north of New York City). In December 2001, the Department of Justice indicted 73 members of the Parrello Crew of the Genovese Crime Family on 98 counts, including extortion, labor racketeering, loan-sharking, illegal gambling operations, selling counterfeit money and gun trafficking.[247] Nine were accused of labor racketeering involving Locals 11 and 964, which together comprised the Suburban New York Regional Council of Carpenters. These defendants allegedly arranged for nonunion workers to complete carpentry jobs, allowing them to embezzle more than \$1 million that should have been paid into of the Suburban Council's pension funds.[248]

¶80Whether the IRO could have done anything differently that would have sparked the emergence of a viable reform movement among the NYC carpenters is an important question. In the IBT Local 560 trusteeship, which lasted a decade, the trustee reached out to the rank and file, appointing some individuals to steward positions and other offices and encouraging others to become involved in union governance and politics. That seemed to have helped in bringing a true reform slate to power.[249] Stimulating reform in the building trades is undoubtedly more difficult because work is seasonal and insecure; workers move from one job to another and one contractor to another. The union-run hiring hall can determine whether an individual carpenter gets a job. Thus, it is risky for a rank and filer to challenge the incumbent clique. Of course, it is also harder for reformers to win back a district council than a local, even a large one like IBT Local 560. The District Council is made up of some twenty locals spread out across the NYC metropolitan area. It is difficult for an insurgent candidate to achieve the name recognition equal to that of incumbent officers.

#### IV. Conclusion: The Need for Further Documentation and Analysis

¶81The government's and the court's effort to reform the District Council by purging mobsters and their allies from the union and its constituent locals and by stimulating union democracy is a work in progress. The effort has been on-going for more than ten years. It has consumed millions of dollars and enormous legal resources, including countless hours of work by Judge Haight,[250] IRO Conboy and his assistants, Assistant United States Attorneys in the Southern District of New York, Labor Department investigators, Walter Mack, as well as, of course, union officials and their attorneys. At best, this is a very expensive way of correcting a corruption and racketeering problem that has festered for decades. Failure in reforming the District Council would cast a pall over the broader effort to relegate organized crime labor racketeering to twentieth century history.

¶82At this point (summer 2003), in light of recent state and federal prosecutions, we cannot yet call the extraordinary remediation effort directed at the District Council a success. Still, there is

more hope now than there was a decade ago. The corrupt elements in the District Council are clearly under pressure. The membership has had a taste of free elections and much fairer work assignments. The union's finances have been made much more transparent and accountable. The pension and welfare funds are more secure. But to get to the next level will require the emergence and triumph of a strong reformist leadership cadre among the rank and file carpenters themselves. Any sign that the government and court are losing interest and readying to withdraw might doom the entire remediation project. Thus, it is essential for the government and the court to make it absolutely clear that the old corrupt regime will not be allowed to return to operate as it had in the past. Beyond that, encouraging new leadership, and stimulating a reform movement among the rank and file, are vital.

¶83A contribution from the academy would be welcome as well. It remains a mystery why such a massive and extraordinary legal effort, in the District Council and in many other union locals, joint councils, and internationals, has attracted so little scholarly attention. Reform efforts, like the one described in this article, need to be documented and analyzed. We need to identify what works and what does not work. Furthermore, we need to stimulate new ideas about how to successfully carry out the goal of organizational reform, especially the reform of organized-crime dominated labor unions.

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[1] James B. Jacobs & David N. Santore, *The Liberation of IBT Local 560*, 37 *Crim. L. Bull.* 125 n.2 (Mar.-Apr. 2001).

[2] James B. Jacobs & Ellen Peters, *Labor Racketeering: The Mafia and the Unions*, 30 *Crime and Justice: An Annual Review of Research* 229 (Michael Tonry ed., University of Chicago Press 2003).

[3] But see *supra* notes 1-2; Michael H. Belzer & Richard Hurd, *Government Oversight, Union Democracy & Labor Racketeering: Lessons from the Teamster Experience*, 20 *J. Labor Research* 343 (1999); Andrew B. Dean, *An Offer the Teamsters Couldn't Refuse: The 1989 Consent Decree Establishing Federal Oversight and Ending Mechanisms*, 100 *Colum. L. Rev.* 2157 (2000); Michael J. Goldberg, *Cleaning Labor's House: Institutional Reform Litigation in the Labor Movement*, 1989 *Duke L.J.* 903 (1989); and James B. Jacobs, Eileen Cunningham & Kimberly Friday, *The RICO Trusteeships After Twenty Years—A Progress Report*, 19 *The Labor Lawyer* \_\_ (forthcoming Winter/Spring 2004).

[4] E.g. Locals 17, 20, 135, 246, 257, 296, 348, 531, 608, 902, 1456, and 2287. See *Government's Supplemental Complaint at 20-34* (filed on July 16, 1994), *United States v. Dist.*

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Council, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) [hereinafter Government's Supp. Compl.].

[5] *Id.* at 36.

[6] *Id.*

[7] *Id.* at 37.

[8] *Id.*

[9] *Id.* at 38.

[10] *Id.* Edward Walaski is the son of Henry Walaski, a labor racketeer. See Table I.

[11] See also Government's Motion for Preliminary Relief, *supra* note 6, at 20-23.

[12] President's Commission on Organized Crime, *The Edge: Organized Crime, Business, and Labor Unions xvii-xxi* (1986).

[13] *People v. O'Connor*, No. 7953/87 (N.Y. Sup. Ct. Sept. 6, 1989). In a different case, Gambino crime family boss John Gotti was prosecuted for shooting O'Connor because O'Connor allegedly ordered his men to trash a remodeling job at a Manhattan restaurant connected to the Gambino family. O'Connor testified on Gotti's behalf. See James Jacobs et al., *Busting the Mob: United States v. Cosa Nostra 211-40* (New York University Press 1994).

[14] Vincent Carafo Aff. at 12, United States Permanent Subcommittee on Investigations of the Committee of Governmental Affairs (1988) ("Vinnie DiNapoli is a soldier in our brigada [i.e., Genovese Family]. In fact, I sponsored him into the LCN. DiNapoli controls the District Council of Carpenters . . .").

[15] This strategy had been deployed in a number of previous cases including suits against three international unions (International Brotherhood of Teamsters, Laborers International Union of North America, and Hotel Employees and Restaurant Employees International Union) and some 17 district councils and locals. See Jacobs et al., *supra* note 3.

[16] Government's Motion for Preliminary Relief, *supra* note 6, at 1.

[17] *Id.* at 2-3.

[18] Consent Decree (filed on Mar. 4, 1994), *United States v. Dist. Council*, 1994 WL 704811 (S.D.N.Y. 1994) (No. 90 Civ. 5722 (CSH)).

[19] United Brotherhood of Carpenters and Joiners of America, <http://www.carpenters.org/home.html>.

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[20] Constitution of the United Brotherhood of Carpenters and Joiners of America, § 26(B).

[21] *United States v. Dist. Council*, 778 F. Supp. 738, 743 (S.D.N.Y. 1991). An individual who serves as an officer of a local and of the District Council draws two salaries.

[22] Government's Motion for Preliminary Relief, *supra* note 6, at 4.

[23] *Id.*

[24] *Id.* at 5; Government's Supp. Compl., *supra* note 4, at 4.

[25] See New York State Organized Crime Task Force, *Corruption and Racketeering in the New York City Construction Industry: The Final Report 27-29* (New York University Press 1990). For an interesting history of the etymology of the word "racketeer," see Andrew Cohen, *The Racketeer's Progress*, 29 *Journal of Urban History* 575 (2003).

[26] See *United States v. Dist. Council*, 778 F. Supp. 738, 743 (S.D.N.Y. 1991).

[27] *Id.*

[28] *Id.*

[29] Government's Motion for Preliminary Relief, *supra* note 6, at 12.

[30] Second Interim Report of the Investigations and Review Officer at 41-42, *United States v. Dist. Council*, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Mar. 13, 1995) [hereinafter *Second Interim Report*].

[31] See Government's Motion for Preliminary Relief, *supra* note 6, at 12-14.

[32] Government's Motion for Preliminary Relief, *supra* note 6, at 15; *United States v. Maritas*, Cr. No. 81-122 (E.D.N.Y. 1981).

[33] Government's Motion for Preliminary Relief, *supra* note 6, at 15; see also Government's Supp. Compl., *supra* note 4, at 37.

[34] Government's Motion for Preliminary Relief, *supra* note 6, at 15; see also Government's Supp. Compl., *supra* note 4, at 37.

[35] The "Commission case," *United States v. Salerno*, 868 F.2d 524 (2d Cir. 1989), was perhaps the most famous organized crime prosecution of all times. The U.S. Attorney for the Southern District of New York charged the bosses for four New York City LCN families, plus a number of important capos, with participating in the affairs of a mafia governing council ("the Commission") through a pattern of racketeering activity. All the defendants were convicted. *Jacobs*, *supra* note 14, at 86.

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[36] Government's Motion for Preliminary Relief, *supra* note 6, at 16.

[37] See Marcelo Svedese Aff. ¶ 12, at 6, *United States v. Dist. Council*, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (August 9, 1990) ("Vinnie DiNapoli took me aside and told me to do whatever Pat Campbell told me to do").

[38] Government's Motion for Preliminary Relief, *supra* note 6, at 16; Svedese Aff., *supra* note 38, ¶ 3, at 2.

[39] See Svedese Aff., *supra* note 38, ¶ 30, at 13, ("I have known Paschal McGuinness to associate with various organized crime figures in connection with the District Council").

[40] See *People v. O'Connor*, Ind. No. 7953/87 (N.Y. Sup. Ct. N.Y. Co. Sep. 6, 1989).

[41] McGuinness was also tried but was acquitted.

[42] Second Interim Report, *supra* note 31, at 18; Salvatore Miciotta Decl. ¶¶ 3-11, *United States v. Dist. Council*, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Nov. 9, 1994).

[43] According to government investigators, John Gotti, boss of the Gambino Crime Family, ordered the assault on O'Connor because O'Connor had his men trash a restaurant in which Gotti held an interest. At Gotti's trial, O'Connor testified for the defense.

[44] Svedese Aff., *supra* note 38, ¶ 30, at 13.

[45] 18 U.S.C. § 1964 (2000). See *Jacobs & Santore*, *supra* note 1, at 131. The first civil RICO suit attacking labor racketeering was *United States v. Local 560, Int'l Bhd. of Teamsters*, 581 F. Supp. 279 (D.N.J. 1984).

[46] See Government's Motion for Preliminary Relief, *supra* note 6, at 1; Government's Supp. Compl., *supra* note 4, at 1 (adding newly sworn officers to the list of defendants).

[47] 18 USC § 1961(4) (2000) (providing that an "enterprise includes any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity").

[48] See 18 U.S.C. § 1962(b) (2000).

[49] See 18 U.S.C. § 1962(c) (2000).

[50] Government's Supp. Compl., *supra* note 4, at 10.

[51] *Id.* at 35-49; 29 U.S.C. § 401-531 (1976), 73 Stat. 517 (1959).

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[52] This argument was first used by the Government in *United States v. Local 560, Int'l Bhd. of Teamsters*, 581 F. Supp. 279 (D.N.J. 1984). The U.S. Supreme Court's decision in *Scheidler v. Nat'l Org. for Women*, 123 S. Ct. 1057 (2003), casts doubt on whether the Hobbs Act can be used to punish interference with existential rights. See *Bellomo v. United States*, 2003 WL 22331878 (E.D.N.Y. Oct. 8, 2003), and *United States v. Bellomo*, 263 F. Supp. 2d 561 (E.D.N.Y. 2003).

[53] Government's Supp. Compl., *supra* note 4, at 11-49.

[54] *Id.* at 37.

[55] *Id.* at 37-38.

[56] *Id.* at 39-45. For example, defendant Irving Zeidman was indicted for receiving illegal labor payoffs before he was elected as first vice president of the District Council. See *People v. Zeidman*, 224 A.D. 669 (N.Y. Sup. Ct. N.Y. Co. 1928)

[57] Government's Supp. Compl., *supra* note 4, at 39-45.

[58] *Id.* at 48-49.

[59] *Id.* at 49.

[60] *Id.* at 50.

[61] *Id.* at 11-34.

[62] Government's Supp. Compl., *supra* note 4, at 22, 25, 27-28, 29-30; see also 18 U.S.C. § 1951 (2000).

[63] Government's Supp. Compl., *supra* note 4, at 11-34; see also 29 U.S.C. § 186 (2000).

[64] Government's Supp. Compl., *supra* note 4, at 17-18; see also 18 U.S.C. § 1341 (2000).

[65] Government's Supp. Compl., *supra* note 4, at 15, 19; see also 18 U.S.C. § 1954 (2000).

[66] Government's Supp. Compl., *supra* note 4, at 52.

[67] See 18 U.S.C. § 1961 (2000).

[68] See *id.*

[69] Government's Supp. Compl., *supra* note 4, at 54-59.

[70] *Id.*

[71] See Consent Decree, *supra* note 19, at 1 (“whereas, trial of the case began on September 13, 1993 and continued through October 18, 1993, when it was temporarily recessed”). At trial, testimony by Hermon Brot and Armand Valenzi and affidavits of Marcello Svedese and Vincent Cafaro proved valuable to the government’s case.

[72] *Id.*

[73] *Id.* at 3.

[74] *Id.* at 4-5.

[75] Before being appointed a federal judge in the United States District Court for the Southern District of New York in 1987, Conboy served as Executive Assistant District Attorney in the Manhattan District Attorney’s Office, Deputy NYPD Commissioner, and Commissioner of Investigation of the City of New York. In 1994, he became a partner at the law firm of Mudge, Rose, Guthrie, Alexander & Ferndon. He is now a litigation partner at Latham and Watkins in New York.

[76] Consent Decree, *supra* note 19, at 5. The five named individuals were Patrick Barth (former Assistant United States Attorney, Southern District of New York), Paul Curran (former United States Attorney, Southern District of New York), John Fried (former Chief of Trials, Manhattan District Attorney’s Office), Helen Gredd (former Assistant United States Attorney and First Deputy of Criminal Division, Southern District of New York), and Alan Kaufman (former Assistant United States Attorney and Chief of Criminal Division, Southern District of New York).

[77] *Id.* at 13-14. The IRO must file an accounting for all expenditures with the court on a quarterly basis.

[78] *United States v. Dist. Council*, 1994 WL 704811 n.1 (S.D.N.Y. Dec. 6, 1994) (No. 90 Civ. 5722 (CSH)).

[79] Consent Decree, *supra* note 19, at 5; see also *id.* at 5-12.

[80] *Id.* at 13; 5 U.S.C. § 706 (2000) provides the applicable standard of review: “The reviewing court shall-- . . . (2) hold unlawful and set aside agency action, findings and conclusions found to be-- (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; . . . (B) without observance of procedure required by law.”

[81] Consent Decree, *supra* note 19, at 15.

[82] *Id.* at 10.

[83] *Id.* at 6-7.

[84] *Id.*

[85] Id.

[86] Interim Report of the Investigations and Review Officer at 9, *United States v. Dist. Council*, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Oct. 4, 1994) [hereinafter Interim Report].

[87] Consent Decree, *supra* note 19, at 12-13.

[88] “Non-exclusive” means that an employer does not have to hire employees exclusively through the hiring hall.

[89] Consent Decree, *supra* note 19, at 12-13 & app. A (“Job Referral Rules”).

[90] Consent Decree, *supra* note 19, at 16 (“[N]o District Council officer shall simultaneously hold any elected, appointed or salaried position in any local union”).

[91] Id. at 17.

[92] Second Interim Report, *supra* note 31, at 40 (Mar. 13, 1995). The former process was susceptible to corruption because delegates, handpicked by the local union leaders, elected the officers. Each delegate had one vote for every hundred union members he represented, and candidates bargained for support, often by engaging in “back-room deals and political horse trading.” Id.

[93] Consent Decree, *supra* note 19, at 10.

[94] Id. at 11.

[95] Id. at 10.

[96] Id. at 5-16.

[97] Kenneth Conboy, *An Open Letter to the Members of the United Brotherhood of Carpenters and Joiners of America* from Judge Kenneth Conboy, *The Carpenter*, Jan./Feb. 1994.

[98] Id.

[99] *United States v. Dist. Council*, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)).

[100] Interim Report, *supra* note 87, at 19.

[101] Id.

[102] Id. at 19-22.

[103] Government's Motion for Preliminary Relief, *supra* note 6, at 16.

[104] *Svedese Aff.*, *supra* note 38, ¶ 21.

[105] *Id.* ¶ 22.

[106] Second Interim Report, *supra* note 31, at 29.

[107] *Id.* at 30-36.

[108] Investigations and Review Officer's Charges at 1-5, *Investigations and Review Officer v. Ruotolo*, (Mar. 13, 1995). Conboy also charged Benedetto Schepis, a member of Local 17, with associating with members of Cosa Nostra, receiving a bribe, and bribing a union official. Investigations and Review Officer's Charges at 1-3, *Investigations and Review Officer v. Schepis*, (Mar. 13, 1995).

[109] Third Interim Report of the Investigations and Review Officer at 48, *United States v. Dist. Council*, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Oct. 30, 1995) [hereinafter Third Interim Report].

[110] *Id.* at 48-50.

[111] Second Interim Report, *supra* note 31, at 18.

[112] Interim Report, *supra* note 87, at 23.

[113] See James B. Jacobs, *Gotham Unbound* 294 (New York University Press 1999). Fiorino, a Genovese Family associate and Liborio Bellomo's brother-in-law, became a Local 257 member in 1982. He was assigned to the Javits Center in 1988 and soon made chief of carpenters at the Center. Devine appointed him as District Council representative in 1994.

[114] Second Interim Report, *supra* note 31, at 8.

[115] John Mitchell Aff. Exhibit M, *United States v. Dist. Council*, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Mar. 17, 1995) ("Criminal History and Affiliation of Carpenters on the Javits Center Pool List").

[116] Jerry Capeci, Death Returns to 'The Life', *Gang Land: The Online Column*, Nov. 2, 1998, available at <http://www.ganglandnews.com/column99.htm>.

[117] Miciotta Decl., *supra* note 43, at 3.

[118] Marcello Svedese testified to Devine's relationship with the Colombo Crime Family: "A number of times, Freddie Devine told me that he had connections in the Colombo Organized Crime Family. On one occasion, I saw Vincent 'Jimmy' Angellino meeting with Freddie Devine

in Devine's District Council office . . . Angellino . . . was a Capo in the Colombo Organized Crime Family." Svedese Aff., supra note 38, at 17. Salvatore "Sammy the Bull" Gravano knew of another connection: "I am aware that Fred Devine is associated with Thomas Petrizzo, a capo in the Colombo Organized Crime Family." Salvatore Gravano Decl. at 4, United States v. Dist. Council, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Feb. 10, 1993).

[119] Devine had ostensibly removed the previous chief steward at the Javits Center, Ralph Coppola, in part because of his connection to organized crime. Letter from Frederick Devine to Ralph Coppola of Aug. 6, 1991. Barney Bellomo's understanding of the situation, however, was that Coppola would continue to supervise Genovese operations at the Center even though he technically no longer worked there. Alphonse D'Arco Decl. at 7, United States v. Dist. Council, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (May 24, 1994). Devine also denied knowing about Fiorino's association with organized crime when he appointed him to oversee hiring at the Center. Frederick Devine Dep. at 140-42, United States v. Dist. Council, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Sept. 1, 1994).

[120] Second Interim Report, supra note 31, at 14.

[121] Id. at 13. "Proposal 14" would have required 90% of the carpenters referred to Javits Center jobs to have three years of experience working in the trade show industry and allowed exhibition companies to select 50% of the carpenters they hired from "a labor pool of experienced carpenters." It was later withdrawn, partly because of Conboy's opposition, but the final agreement included provisions with qualifications that strongly favored pool list members anyway.

[122] Id. at 15; see also id. Exhibit 13 (Letter from Frederick Devine to Kenneth Conboy of Oct. 3, 1994).

[123] Second Interim Report, supra note 31, at 22.

[124] Id. at 23.

[125] Third Interim Report, supra note 110, at 48.

[126] See 29 U.S.C. § 158(b)(2) (2000).

[127] See 29 U.S.C. § 186(b)(1) (2000).

[128] Second Interim Report, supra note 31, at 21-22.

[129] IHC Panel's Decision at 35-36, Investigations and Review Officer v. Fiorino, (Sept. 28, 1995).

[130] Fifth Interim Report of the Investigations and Review Officer at 6, United States v. Dist. Council, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Sept. 30, 1996) [hereinafter Fifth Interim Report].

[131] Third Interim Report, *supra* note 110, at 39.

[132] *Id.* at 40.

[133] *Id.* at 41.

[134] *Id.*

[135] Jacobs, *supra* note 114, 185-186. Workers in the “freight unit” became members of the Teamsters Union.

[136] *Id.* at 189 (quoting the Office of the State Comptroller praising the reforms at the Javits Center).

[137] *United States v. Dist. Council*, 880 F.Supp. 1051, 1057 (S.D.N.Y. 1995).

[138] *United States v. Int’l Brotherhood of Teamsters*, 723 F. Supp. 203, 206 (S.D.N.Y. 1989).

[139] *United States v. Dist. Council*, 880 F.Supp. at 1060-1065.

[140] “The District Council makes the following general objections to the those rules in which the IRO ‘conducts’ the election: (1) It sends a message to the membership that the current officers cannot be trusted to run a fair election; (2) The IRO is ‘posturing, posing, and grandstanding’; (3) The IRO seeks to move as many possible functions over to his staff so that he may enhance the financial position of his firm; (4) The election rules were meant to guide and prepare the District Council to conduct future elections, but will not do so, if the IRO does everything himself; (5) There is no history of corruption or intimidation in District Council elections, and the only suggestion of such a climate, detailed in the IRO’s Interim Report of October 4, 1994, was based on hearsay and innuendo, and motivated by the IRO’s anti-incumbent bias.” *Id.* at 1067; see also *id.* at 1067-1070.

[141] *Id.* at 1070-1075.

[142] *Id.* at 1066-1067.

[143] *Id.* at 1059.

[144] Final Rules for the 1995 Election of the Executive Committee of the District Council of Carpenters of New York City and Vicinity at § 2, ¶ 1 (March 1995) (crimes include extortion, embezzlement, grand larceny, burglary, arson, etc.).

[145] *Id.* at § 2, ¶ 2(B).

[146] *Id.* at § 3, ¶¶ 3-4.

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[147] Id. at § 3, ¶ 8.

[148] Id. at § 3, ¶¶ 5-6.

[149] Id. at § 4, ¶¶ 1-2.

[150] Id. at § 5, ¶¶ 1-5.

[151] Id. at § 9, ¶ 1.

[152] Id. at § 7.

[153] Third Interim Report, supra 110, at 10.

[154] Id. at 3.

[155] Jack Newfield, Sleazy does it in vote for carpenters' prez, N.Y. Post, June 13, 1995 (in Third Interim Report, supra note 110, Exhibit 2).

[156] Third Interim Report, supra note 110, at 23.

[157] Id. at 23-24.

[158] Id. at 25. Ecco Staffing, Inc., a company recommended by the American Arbitration Association, provided the assistants.

[159] Mail ballots were used by disabled members or members living more than 75 miles away. Id.

[160] Id.

[161] Id. at 5. The individual results were as follows: Frederick Devine received 4,265 of 7,553 votes (56.6%) for President; William Reardon received 4,159 of 7,143 votes (58.2%) for First Vice President; William Hanley received 4,299 of 7,190 votes (59.8%) for Second Vice President; Robert Cavaugh received 4,301 of 6,927 votes (68.3%) for Secretary/Treasurer; Raymond O'Kane received 4,077 of 7,115 votes (57.3%) for Chairman of the Trustees. Id. at 38.

[162] Id. at 15.

[163] Id. at 16. Devine reported contributing \$10,000 and Reardon, Hanley and Cavanaugh each contributed \$5,000.

[164] Id.

[165] Id. at 18.

[166] Id.

[167] Id. at 20.

[168] Id. at 52.

[169] Id. at 38.

[170] See Jacobs & Santore, *supra* note 1, (describing how the mob faction won the first free election in IBT Local 560). The classic study on the apathy of union members is Seymour Martin Lipset, Martin A. Trow & James S. Coleman, *Union Democracy: The Internal Politics of the International Typographical Union* (Free Press 1956).

[171] Sixth Interim Report of the Investigations and Review Officer at 24, *United States v. Dist. Council*, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Mar. 4, 1997) [hereinafter Sixth Interim Report].

[172] Ninth Interim Report of the Investigations and Review Officer at 31, *United States v. Dist. Council*, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Mar. 4, 1997) [hereinafter Ninth Interim Report].

[173] Sixth Interim Report, *supra* note 172, at 23-24.

[174] Ninth Interim Report, *supra* note 173, at 32.

[175] Sixth Interim Report, *supra* note 172, at 25.

[176] Id. at 25-26.

[177] Eighth Interim Report of the Investigations and Review Officer at 13-14, *United States v. Dist. Council*, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Nov. 28, 1997) [hereinafter Eighth Interim Report].

[178] Id. at 17.

[179] Id. at 22.

[180] Ninth Interim Report, *supra* note 173, at 31.

[181] Id. at 27.

[182] Id. at 28-29.

[183] Sixth Interim Report, *supra* note 172, at 15-23.

[184] Fifth Interim Report, *supra* note 131, at 2.

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[185] Id.

[186] Id. at 3.

[187] Id at 3-4.

[188] Id at 25.

[189] Id at 5.

[190] Id at 26-30.

[191] Id at 26.

[192] Id at 31.

[193] Devine v. McCarron, No. 96 Civ. (CSH) 5093, 1997 WL 379708, at \*1 (S.D.N.Y. July 9, 1997)

[194] Id. at \*7.

[195] Devine v. McCarron, No. 96 Civ. (CSH) 5093, 1997 U.S. Dist. LEXIS 16816, at \*7 (S.D.N.Y. Oct. 29, 1997).

[196] Sixth Interim Report, supra note 172, at 12-13. The union had paid Devine's son, Michael, \$90,000 a year and provided him a new car.

[197] Id. at 13. Cohen was subsequently indicted for stealing more than \$150,000 from the District Council by overbilling for reimbursable expenses and inflating expenses of a lobbyist who worked for him. Impediments to Union Democracy Part II: Right to Vote in the Carpenter's Union? Hearing Before the Subcomm. On Employer-Employee Relations of the House Comm. on Educ. and the Workforce, 105th Cong. at § IV, ¶ E (June 25, 1998) [hereinafter Impediments to Union Democracy Part II] (prepared statement of Douglas J. McCarron, General President, United Brotherhood of Carpenters and Joiners of America). Cohen pleaded guilty to falsifying records. National Legal and Policy Center, New York Union Attorney Loses License, 2 Union Corruption Update 13, June 21, 1999, at [http://www.nlpc.org/olap/UCU/02\\_13.htm](http://www.nlpc.org/olap/UCU/02_13.htm).

[198] Selwyn Raab, Former Chief of Carpenters' Union Convicted of Stealing Funds, N.Y. Times, Mar. 25, 1998, at B3.

[199] Ninth Interim Report, supra note 173, at 2.

[200] Eighth Interim Report, supra note 178, at 2-4.

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[201] Impediments to Union Democracy Part II, *supra* note 197, at § I (prepared statement of Douglas J. McCarron).

[202] *Id.* at 22.

[203] *Id.* at 4.

[204] *Local Unions v. United Bhd. of Carpenters*, 1997 WL 630179 (S.D.N.Y. Oct. 9, 1997).

[205] *United States v. Dist. Council*, 972 F. Supp. 756, 759 (S.D.N.Y. 1997). The consent decree requires prior court approval only for changes proposed by the IRO. The Restructuring Plan was proposed by the UBC.

[206] “The national plan calls for regional and district council officers to be elected by the delegates to the council. The International has come to believe that such a voting system should be implemented at the District Council.” Ninth Interim Report, *supra* note 173, at 12.

[207] Impediments to Union Democracy Part II, *supra* note 197, at § III (prepared statement of Douglas J. McCarron).

[208] *Id.*

[209] *Id.* at 5-6.

[210] On June 25, 1998, the Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce of the United States Congress held a hearing called “Impediments to Union Democracy Part II: Right to Vote in the Carpenters' Union?” at which Carpenter Union members described their objections to the UBC Trusteeship. See Impediments to Union Democracy Part II app. F, *supra* note 197, at 101, available at <http://edworkforce.house.gov/hearings/105th/eer/ud62598/lebo.htm> (statement of William S. Lebo) (“I believe the New York City District Councils [sic] take over had less to do with fighting corruption and more to do with Douglas McCarron’s methodical creation of his personal and publicized goal of restructuring of our union, which is no more than the building of his own private empire”); see also Impediments to Union Democracy Part II app. E, *supra* note 197, at 93-94, available at <http://edworkforce.house.gov/hearings/105th/eer/ud62598/luguori.htm> (statement of John F. Liguori) (“The New York District Council, the only District Council which because of the Consent Degree [sic], had elected its leaders under the democratic principles of ‘one man-one vote’ has met the same fate as its sister Unions . . . These new by-laws shift all power of governance and self-determination from the Local Unions (and from the members) and centralize authority in the regional council whose members are hand picked McCarron appointees.”).

[211] Tenth Interim Report of the Investigations and Review Officer at 10-11, *United States v. Dist. Council*, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Dec. 3, 1998) [hereinafter Tenth Interim Report] (“In sum, but for the provision in the proposed by-laws by which the executive committee is selected by the delegates to the District Council, the IRO

broadly endorses their implementation by the District Council”); see also Tenth Interim Report at 11 n.8 (“The IRO’s decision regarding the manner by which the executive committee should be selected should not be construed as a criticism of the delegate voting method, nor as a prediction that such a system would not, in fact, yield . . . democratic results”).

[212] *Id.* at 7.

[213] The District Council of New York City and Vicinity of the UBC By-Laws, § 4 at [http://www.local157.com/by\\_laws.htm](http://www.local157.com/by_laws.htm).

[214] *Id.* at § 8.

[215] See Final Rules for the 2002 Election of the Executive Committee and the Delegate Body of the District Council of New York City and Vicinity of the UBC, § IX.B. at <http://www.nycdistrictcouncil.com/assets/Final%20Rules%20for%20the%202002%20Election.pdf>.

[216] *Id.*

[217] *United States v. Dist. Council*, 1999 U.S. Dist. Lexis 8781, at \*11 (S.D.N.Y. June 10, 1999).

[218] *Id.*

[219] *Id.* at \*18.

[220] See *United States v. Dist. Council*, 1999 U.S. Dist. LEXIS 10527, at \*11 (S.D.N.Y. July 9, 1999)

[221] *Id.* at \*13.

[222] *United States v. Dist. Council*, 1999 U.S. Dist. LEXIS 8781, at \*21.

[223] *United States v. District Council*, 1999 U.S. Dist. LEXIS 10527, at \*17.

[224] *Id.*

[225] Ninth Interim Report, *supra* note 173, at 3.

[226] Tenth Interim Report, *supra* note 212, at 1 n.1.

[227] *United States v. Dist. Council*, 1999 U.S. Dist. LEXIS 8781, at \*22 n.4. Conboy also has his critics. For example, “[T]he IRO’s tenure under the consent decree was about to expire at the time the UBC took over our council, the UBC extended his tenure at the time of the take over at the cost of sixty-five thousand a month. Ever since, the IRO has been writing shining reports to the court regarding Mr. McCarron’s actions and it seems every time he writes a report he gets

another extension of his tenure.” Impediments to Union Democracy Part II app. F, *supra* note 197, at 101, available at <http://edworkforce.house.gov/hearings/105th/eed/ud62598/lebo.htm> (statement of William S. Lebo).

Conboy’s Sixth Interim Report says that some union members who complained about the International trusteeship were Devine supporters with, in some cases, ties to organized crime. Sixth Interim Report, *supra* note 172, at 11-12.

[228] Since the trusteeship ended, President McCarron has been tarnished by his involvement in the “Ullico Scandal.” McCarron was a board member of the union-dominated insurance firm Ullico, which was linked to the now bankrupt firm, Global Crossing. He, along with other board members, allegedly cashed in approximately 71,000 Ullico shares at the expense of union pension funds. Though this scandal doesn’t involve any organized crime connection and may not even involve criminal wrongdoing, it certainly suggests improper profiteering by top union officials. See National Legal and Policy Center, ULLICO Scandal Grows: Maddaloni, McCarron, Bahr Sold Shares, 5 Union Corruption Update 8, Apr. 15, 2002, at [http://nlpc.org/olap/UCU3/05\\_08\\_02.htm](http://nlpc.org/olap/UCU3/05_08_02.htm).

[229] Tom Robbins, Back to the Mob, *The Village Voice*, Sept. 19, 2000, at 31.

[230] *Id.*

[231] Eighth Interim Report, *supra* note 178, at 21.

[232] Fourth Interim Report of the Investigations and Review Officer at 7, *United States v. Dist. Council*, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Mar. 15, 1996).

[233] Sixth Interim Report, *supra* note 172, at 26-27.

[234] *United States v. Dist. Council*, 2002 WL 31873460 (S.D.N.Y. Dec. 24, 2002), 171 L.R.R.M. 3031 (S.D.N.Y. Dec. 24, 2002).

[235] Stipulation and Order at 1-5, *United States v. Dist. Council*, 1994 WL 704811 (S.D.N.Y. Dec. 16, 1994) (No. 90 Civ. 5722 (CSH)) (Dec. 17, 2002). Shop stewards were supposed to be assigned to jobs based on their place on the out-of-work list when their skills matched those requested for the job. According to Clarke, this system was corrupted by manipulation of listed and requested skills. As a remedy, the rules were changed so that: requests by shop stewards to change their listed skills would not take effect until 30 days after the request; a District Council business agent would be assigned to oversee every job with a shop steward; and a District Council officer responsible for managing the out-of-work list would review all dispatch requests and flag for investigation those which meet given requirements for arousing suspicion.

[236] *Id.* at 5.

[237] *Id.* at 5-13. “The Independent Investigator shall have the authority to investigate allegations of wrongdoing concerning the operation of the job referral system and/or corruption

or violations of federal, state, or local law by District Council representatives, including without limitation officers, employees, delegates, business managers, business agents, and shop stewards (hereinafter, 'District Council Representatives'), concerning the operation of the job referral system; to recommend disciplinary charges against District Council Representatives as well as against officers, employees and members of the constituent local unions for such wrongdoing or for the failure of any officer or member to cooperate with the Independent Investigator; to make referrals to the District Council and/or law enforcement agencies for further investigation when appropriate; and to report to the Court and/or the Government as appropriate. The Independent Investigator shall operate the toll-free 'hotline' telephone service . . . in order to solicit and receive allegations of wrongdoing or corruption by any person in connection with the operations of the District Council, whether or not such allegations relate to the job referral system. The Independent Investigator shall conduct an assessment of the District Council's anti-corruption efforts as set forth in paragraph 6(f), *infra*." Id at 6.

[238] Id. at 2.

[239] Herman Benson, *At the House Hearings on Union Democracy*, 120 *Union Democracy Review*, at [http://www.thelaborers.net/aud/AUD\\_hearings.html](http://www.thelaborers.net/aud/AUD_hearings.html).

[240] Dissident carpenters have formed the Carpenters for a Democratic Union International (CDUI). They demand "one member, one vote" for all union positions, direct membership votes on contracts, and direct election of delegates. John Kirkland, *Some Comments on the Carpenters and "The State of Today's Trade Union Movement"*, *The Labor Standard*, at [http://www.laborstandard.org/New\\_Postings/John\\_Kirkland\\_comments.htm](http://www.laborstandard.org/New_Postings/John_Kirkland_comments.htm). They publish CDUI News. See <http://www.ranknfile.net>.

[241] This is not the only example of union voters returning members of the old corrupt regime to office. The same thing happened in IBT Local 560. There too, the trustee ultimately negated the election by having the president removed. See *Jacobs & Santore, supra note 1*, 142-44.

[242] *Robbins, supra note 230*, at 31.

[243] Barbara Ross & Greg B. Smith, *Mob-Extortion Probe Leads To 38 Arrests*, *New York Daily News*, Sept. 7, 2000, at 6.

[244] National Legal and Policy Center, *Massive New York Probe Nabs 11 Union Bosses*, 3 *Union Corruption Update* 19, Sept. 11, 2000, at [http://nlpc.org/olap/UCU2/03\\_19.htm](http://nlpc.org/olap/UCU2/03_19.htm).

[245] Forde's father, who also served as UBC president of Local 608, was convicted of bribery in 1990.

[246] NYC District Council of Carpenters, "Union Elections 2002," at [http://www.nycdistrictcouncil.com/unofficial\\_elections.htm](http://www.nycdistrictcouncil.com/unofficial_elections.htm).

[247] *Indictment at 4-8, United States v. Parrello, (S.D.N.Y.) (01 Crim. 1120) (Dec. 5, 2001)*.

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[248] *Id.* at 53-56.

[249] Jacobs & Santore, *supra* note 1, at 152-53.

[250] See Table II in Appendix below.

### Appendix

#### Table I: Labor Racketeering Prosecutions Related to the NYC District Council of Carpenters

United States v. Maritas, Cr. No. 81-122 (E.D.N.Y.)

Former District Council president Theodore Maritas and Genovese capo Vincent DiNapoli were indicted for RICO violations.

United States v. Giangrande, 805 F.2d 391 (2d Cir. 1986)

District Council officer Artie Giandrane, convicted after trial for conspiracy, mail fraud and illegal labor payoffs.

People v. Bitondo, Ind. No. 7952/87 (N.Y. Sup. Ct. N.Y. Co.)

Local 257 officers Attilio Bitondo and Gene Hanley were indicted for receiving illegal payoffs and engaging in extortion.

United States v. Cervone, et al., Cr. No. 87-579 (E.D.N.Y)

Henry Walaski, an officer of Local 531 and District Council delegate, was convicted for violating RICO and receiving illegal payoffs.

People v. Holden, Ind. No. 9352/87 (N.Y. Sup. Ct. N.Y. Co.)

Local 608 shop steward William Holden was convicted of criminal contempt and perjury in an investigation of the Carpenters Union.

People v. Forde, Ind. No. 7951/87 (N.Y. Sup. Ct. N.Y.Co.)

Martin Forde, an officer of Local 608, was convicted for receiving an illegal labor payoff

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People v. Zeidman, Ind. No. 7950/87 (N.Y. Sup. Ct. N.Y. Co.)

District Council first vice president Irving Zeidman was indicted for accepting labor payoffs.

United States v. Waller, Cr. No. 88-466 (E.D.N.Y.)

Local 531 officer Robert Waller, Jr. was convicted of extortion.

People v. Hubelbank, Crim. Compl. No. 9N072405/89 (N.Y. Crim. Ct. N.Y. Co.)

District Council Trustee and former Local 135 officer Israel Hubelbank was convicted of accepting illegal labor payoffs.

People v. Moscatiello, Ind. No. 8081/89 (N.Y. Sup. Ct.)

Local 17 businss manager Benedetto “Benny” Schepis was indicted for crimes involving Local 135

### Table II: Opinions and Orders by Judge Haight in Carpenters Litigation

1991

United States of America v. District Council of the New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America, et al., 1991 WestLaw 143507, July 24, 1991 (decision xxx)

United States v. District Council of Carpenters, 778 F.Supp. 738, 122 Lab.Cas. P 10,264, Nov. 20, 1991 (decision xxx)

1992

United States v. District Council of Carpenters, 782 F.Supp. 920, Feb. 3, 1992 (decision xxx)

United States v. District Council of Carpenters, 1992 WestLaw 111100, May 4, 1992 (decision xxx)

United States v. District Council of Carpenters, 1992 WestLaw 188379, July 30, 1992 (decision xxx)

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1993

United States v. District Council of Carpenters, 1993 WestLaw 159959, 125 Lab.Cas. P 10,721, May 12, 1993 (decision xxx)

United States v. District Council of Carpenters, 832 F.Supp. 644, 38 Fed. R. Evid. Serv. 627, Sept. 8, 1993 (decision xxx)

United States v. District Council of Carpenters, 1993 WestLaw 364443, Sept. 10, 1993 (decision xxx)

1994

United States v. District Council of Carpenters, 1994 WestLaw 75026, March 4, 1994 (decision xxx)

United States v. District Council of Carpenters, 1994 WestLaw 88031, March 11, 1994 (decision xxx)

United States v. District Council of Carpenters, 1994 WestLaw 704811, Dec. 16, 1994 (decision xxx)

1995

United States v. District Council of Carpenters, 880 F.Supp. 1051, 149 L.R.R.M. (BNA) 2425, April 6, 1995 (decision xxx)

United States v. District Council of Carpenters, 1995 WestLaw 360125, 149 L.R.R.M. (BNA) 2779, June 13, 1995 (decision xxx)

United States v. District Council of Carpenters, 1995 WestLaw 406108, 153 L.R.R.M. (BNA) 2437, July 7, 1995 (decision xxx)

United States v. District Council of Carpenters, 1995 WestLaw 595660, Sept. 29, 1995 (decision xxx)

United States v. District Council of Carpenters, 1995 WestLaw 747856, De. 18, 1995 (decision xxx)

1996

United States v. District Council of Carpenters, 1996 WestLaw 48619, Feb. 6, 1996 (decision xxx)

United States v. District Council of Carpenters, 1996 WestLaw 221584, 152 L.R.R.M. (BNA) 2353, May 2, 1996 (decision xxx)

United States v. District Council of Carpenters, 1996 WestLaw 251868, May 13, 1996 (decision xxx)

United States v. District Council of Carpenters, 1996 WestLaw 334414, June 18, 1996 (decision xxx)

United States v. District Council of Carpenters, 1996 WestLaw 346668, June 19, 1996 (decision xxx)

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United States v. District Council of Carpenters, 941 F.Supp. 349, 154 L.R.R.M. (BNA) 2281, Sept. 12, 1996 (decision xxx)

1997

Anderson v. Conboy, 1997 WestLaw 177890, No. 94 Civ. 9159, April 14, 1997 (decision xxx)

United States v. District Council of Carpenters, 1997 WestLaw 269515, May 21, 1997 (decision xxx)

Devine v. McCarron, 1997 WestLaw 379708, July 9, 1997 (decision xxx)

United States v. District Council of Carpenters, 972 F.Supp. 756, July 24, 1997 (decision xxx)

United States v. District Council of Carpenters, 1997 WestLaw 433482, Aug. 1, 1997 (decision xxx)

Local Unions 20, 135, 257,296, 531, 740, 902, 1456 of United Brotherhood of Carpenters and Joiners of America v. United Brotherhood of Carpenters and Joiners of America, 1997 WestLaw 630179, 157 L.R.R.M. (BNA) 2421, Oct. 9, 1997 (decision xxx)

Local Unions 20 et al. v. United Brotherhood of Carpenters, 1997 WestLaw 802895, Dec. 31, 1997 (decision xxx)

1998

Harkin v. United Brotherhood of Carpenters, 1998 WestLaw 175932, April 14, 1998 (decision xxx)

Local Unions 20, 135, 246, 257, 296, 531, 740, 902, 1456, 1536, 1994 and 2287, et al. v. United Brotherhood of Carpenters, 1998 WestLaw 690185

United States v. District Council of Carpenters, 1998 WestLaw 684462, Oct. 1, 1998 (decision xxx)

1999

Local Unions 20 et al. v. United Brotherhood of Carpenters, 1999 WestLaw 60084, 161 L.R.R.M. (BNA) 2369, Feb. 8, 1999 (decision xxx)

Local Unions 20 et al. v. United Brotherhood of Carpenters, 1999 WestLaw 60083, 161 L.R.R.M. (BNA) 2369, Feb. 8, 1999 (decision xxx)

United States v. District Council of Carpenters, 1999 WestLaw 386935, 162 L.R.R.M. (BNA) 2354, June 11, 1999 (decision xxx)

United States v. District Council of Carpenters, 1999 WestLaw 494121, 162 L.R.R.M. (BNA) 2360, July 12, 1999 (decision xxx)

United States v. District Council of Carpenters, 1999 WestLaw 731421, 162 L.R.R.M. (BNA) 2574, Sept. 20, 1999 (decision xxx)

United States v. District Council of Carpenters, 1999 WestLaw 760000, 162 L.R.R.M. (BNA) 2574, Sept. 24, 1999 (decision xxx)

Lynch v. District Council of Carpenters, 1999 WestLaw 1072471, 163 L.R.R.M. (BNA) 2890, Nov. 29, 1999 (decision xxx)

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2002

Local Unions 20 et al. v. United Brotherhood of Carpenters, 223 F.Supp.2d 491, 48 UCC Rep.Serv.2d 519, Aug. 15, 2002 (decision xxx)

United States v. District Council of Carpenters, 2002 WestLaw 31873460, 171 L.R.R.M. (BNA) 3031, Dec. 24, 2002 (decision xxx)

2003

United States v. District Council of Carpenters, 2003 WestLaw 21035292, May 7, 2003 (decision xxx)