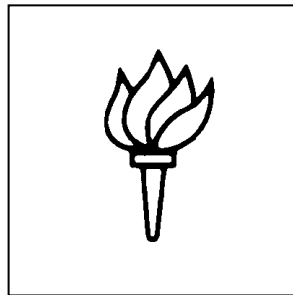


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THE TEAMSTERS ROCKY ROAD TO RECOVERY— THE DEMISE OF PROJECT RISE

James B. Jacobs and R.P. Alford

The 1988 government-initiated civil-RICO suit and court-enforced agreement to purge the International Brotherhood of Teamsters (IBT) of organized crime's presence and influence will stand as an important chapter in American labor history as well as law enforcement history.¹ The remedial phase, now in its sixteenth year, is one of the most ambitious institutional law reform efforts, since it involves the nation's largest private-sector union and its most powerful organized crime syndicate. So far, the suit has transformed the IBT's system for electing international union officers, led to the suspension or expulsion of approximately 500 IBT officers, and produced several dozen IBT international union trusteeships over organized-crime-influenced locals (Jacobs et al., 2004). It also spawned Project RISE, an IBT-initiated anti-racketeering program meant to persuade the U.S. Department of Justice (DOJ) that the union is ready, willing, and able to police itself, thereby rendering unnecessary the continued monitoring by means of the Independent Review Board (IRB) established by the settlement of the 1988 RICO suit.

This article seeks to make Project RISE's brief but extraordinary history available to scholars and policymakers concerned with labor racketeering, organized crime control, and the IBT itself. It also seeks to shed light on whether Project RISE should be seen as a model for future organizational reform initiatives or, on the contrary, as proof that racketeer-ridden unions and other organizations cannot be expected or trusted to reform themselves. Part I reviews the history of the civil RICO litigation that eventually led to Project RISE. Part II describes the organization and operation of Project RISE. Part III chronicles and explains the demise of Project RISE. Part IV identifies Project RISE's accomplishments and failures.

I. The Government's Civil-RICO Suit and the DOJ/IBT Settlement

In June 1988, Rudy Giuliani, then U.S. attorney for the Southern District of New York, filed the first-ever civil RICO complaint against a national/international union (United States, 1989). The complaint named as defendants the union's international officers and the Cosa Nostra "commission" of the most powerful or-

ganized crime families among them 26 individual Cosa Nostra members and associates, including Genovese crime family boss, Tony Salerno, Lucchese crime family boss Tony Corallo, Chicago outfit boss Joey Aiuppa, and Milwaukee crime family boss, Frank Balistreri. The union defendants included the IBT's general executive board, General President Jackie Presser and General Secretary Weldon Mathis.²

The civil RICO complaint charged that: the organized crime defendants (aided and abetted by the union defendants) violated RICO (18 U.S.C. § 1962(b)) by "acquiring [and] maintaining an interest" in the IBT "through a pattern of racketeering activity" that included acts of violence, fraud and extortion of union members' rights.³ The complaint further alleged that the defendants violated another RICO provision (18 U.S.C. § 1962(c)) by "conduct[ing] . . . the affairs of such an enterprise" (the IBT itself) "through a pattern of racketeering activity" that included fraud, violence, and other criminal conduct. The 113-page complaint (plus a 105-page memorandum of law, and a 72-page U.S. attorney's declaration providing important background information), cited a litany of crimes (the "predicate" acts that constitute the pattern of racketeering activity) committed or tolerated by the defendants, the victims were union members who, over the years, questioned or criticized the ruling clique and against employers who refused to accede to the labor racketeers' demands. The government alleged that, despite 191 criminal convictions and 22 civil enforcement actions, neither the IBT general president nor any general executive board member had ever instituted a disciplinary action or conducted an investigation into organized crime's influence in the union.

On March 13, 1989, the IBT and the DOJ entered into a consent agreement that provided for a permanent injunction barring the organized crime defendants from future involvement with the IBT; changing the IBT constitution to establish democratic rules and procedures for electing international officers; prohibiting IBT members from knowing association with organized crime members or with expelled IBT members and, most important; establishing for a court-appointed three-person trusteeship (consisting of an "independent administrator, investigations officer, and elections officer")(Consent Decree, n.d.). Furthermore, the consent decree stated that once the federal district court certified that the 1991 election of international officers conformed to the new election rules, a three-person Independent Review Board (IRB) would replace the three-person trusteeship. However, the elections officer would continue in office through two international election cycles (1991 and 1996).

The Independent Administrator and, after 1991, the IRB, held hundreds of disciplinary hearings, expelled hundreds of IBT officers for knowingly associating with members of organized crime, failing to cooperate with the trustees and other violations of the consent decree or the IBT Constitution.⁴ Pursuant to the recommendations of the trustees and the IRB, the IBT placed 35 local unions under international union trusteeships (Jacobs et al., 2004). The IRB remains active to this day (fall 2005).

The civil RICO suit, the Independent Administrator, and the IRB have never been popular with IBT officers or with the union's rank and file, who often con-

tend that the monitors' activities are too expensive and too intrusive. The IBT General President, James P. Hoffa⁵ (1998–present), made elimination of the trusteeship a major plank in his 1996 electoral campaign and in the 1998 re-run election (Jacobs and Peters, 2003: 247–248).

Soon after the 1998 election, Hoffa recruited Edwin Stier to create an anti-corruption and racketeering initiative that would persuade the U.S. attorney and the federal district judge that the IRB was no longer necessary. Stier, a former state and federal prosecutor, seemed the perfect choice to lead the internal reform effort, called Project RISE, since he had already succeeded (over the course of ten years) in reforming (Union City, NJ) IBT Local 560, one of the most racketeer-ridden union locals in the United States (Jacobs and Mullin, 2003).

The IBT general executive board (hereinafter GEB) formally approved Project RISE (Respect, Integrity, Strength, and Ethics) on July 28, 1999.⁶ The GEB named Stier special counsel,⁷ and assigned him an office at Teamster's headquarters in Washington, D.C. The GEB announced that Project RISE would "establish standards of conduct, educate all officers and members in these standards, establish impartial mechanisms for these standards, and identify any remaining organized crime influence within the union"(General Executive Board, 1999). Stier himself said that he was "convinced that Jim Hoffa and the leaders of this union are committed to running a clean union and are determined to remove any remaining vestiges of organized crime"("Hoffa Announces," 1999).

II. The Organization and Implementation of Project RISE

Stier pursued three strategies. First, he launched an initiative to draft an ethics code and associated enforcement machinery to provide the legal basis for and organizational capacity to investigate and discipline wrongdoing in the IRB. Harris Hartz, a former New Mexico Supreme Court judge (and former head of the New Mexico Organized Crime Prevention Task Force), was hired to chair the drafting committee ("Teamsters Name," 1999).⁸ Hoffa appointed 22 committee members, local IBT officials balanced by geography, race, and gender (Task Force Members, n.d.). However, only one committee member was a member of Teamsters for a Democratic Union⁹ (hereinafter TDU), the national rank-and-file reform organization that had supported Hoffa's opponents in the 1996 and 1998 elections.¹⁰

Project RISE's second prong was an investigation of the current status of organized crime's influence in the union. As lead investigator,¹¹ Stier chose James Kossler, a retired FBI special agent who had served as head of the FBI's New York City office's organized crime program. Kossler, in turn, hired former FBI agents from around the country to investigate possible organized crime involvement in all of those local unions that had been tainted by allegations of connections with Cosa Nostra. Third, Stier chose his law partner, Howard Anderson, to write a history of the relationship between the Teamsters and organized crime. Finally, Stier appointed

an 11-member advisory board of professors,¹² union officials, and former prosecutors to monitor Project RISE's operations, make suggestions, and publicize the Project if and how individual members thought appropriate (Stier et al., 2003). All told, Project RISE amounted to one of the most comprehensive anti-corruption program ever adopted by a U.S. union. It marked a turning point in the history of the IBT, a union plagued by corruption and organized crime infiltration since the early twentieth century.¹³

The Ethics Code and Enforcement Machinery

The code-writing committee met nine times over a 21-month period between June 2000 and March 2001.¹⁴ Harris Hartz did the actual drafting, while the committee members debated and amended repeatedly each provision. Various advisory board members attended some or all of these meetings. Drafts were sent to the IRB and the U.S. attorney for comments. The draft rules evolved after having taken into account their suggestions and criticisms. The final product is a 20,000-word document consisting of an introductory section (entitled "Preliminary Materials"), which contains a preamble, introduction, section on "Teamster core values" and a section on the "basic principles underlying the code." Three substantive chapters follow (devoted respectively to fiduciary duties, democratic practices, and compliance and enforcement). A glossary and an appendix explaining the drafting process complete the volume,

The preamble states that: "The purpose of this code is to keep organized crime and other forms of corruption out of the union."¹⁵ The introduction affirms the value of union democracy, emphasizing the need for rules that nourish democratic processes within the union. It emphasizes the importance of ethical practices for preventing corruption and organized crime influence and presents the IBT's "core values,"¹⁶ and explains that the code contains proscriptive rules, the violation of which constitute "offenses" punishable by union sanctions, including expulsion. The introduction also explains that the commentary accompanying each rule provides examples of how the rules should be interpreted and applied. However, an alleged violation must be linked to a rule, not to the commentary that fleshes out the meaning of that rule.

"Basic Principles," defines IBT officials' fiduciary duties to the membership and proscribed conflicts of interest. The subsection on fiduciary duties states that IBT members cannot "hold[. . .] or acquir[e] any pecuniary or personal interest which conflicts with the interest of [the union], and [that the member must] account to the organization for any profit [received] in whatever capacity in connection with transactions conducted [or directed] on behalf of [the union.]"¹⁷

The code's three substantive chapters prohibit specific conflicts of interests, which had been a previously accepted practice, such as accepting gifts from suppliers.¹⁸ They ban fraternization with expelled members and LCN figures,¹⁹ and set out democratic administrative procedures for IBT locals, including open meetings.²⁰

Lastly, the code establishes offices, hearing panels, and disciplinary procedures for enforcing.²¹

The form of the three substantive chapters look is like much of the American Bar Association's Model Rules of Professional Responsibility. The code provide "black letter" rules that define proscribed conduct, and advisory commentary that explains these rules.²² For example, Chapter I, § 6(a) states: "The fiduciary shall faithfully serve the best interests of the participants and beneficiaries of the plan in accordance with the requirements of applicable law." The commentary explains that "the only interests [IBT officials] can serve are those of the Union and its members. They [must not] must use their power for personal advantage."²³

In part, the code tracks and restates federal law contained in the Taft-Hartley Act, the Landrum-Griffin Act, the Employee Retirement Investment Security Act (ERISA), and other labor laws—e.g. Basic Principle 1(a) states "[a]gents of the union owe a fiduciary duty to the union to hold its money and property solely for the benefit of the organization and its members." This is a restatement of Landrum-Griffin § 501.²⁴ The code prohibits "sham contracts,"²⁵ "kickbacks,"²⁶ and "loans and gifts" of union property.²⁷ The Taft-Hartley Act prohibits labor union officials from accepting anything of value from employers. In 1974, the Employee Retirement Investment Security Act²⁸ made embezzlement from union benefit funds a separate federal crime (Jacobs, 2006). The code also tracks ERISA by making benefit plan fraud a violation. The code states: "Neither the fiduciary nor any member of the fiduciary's family shall profit personally from his or her position in the plan,"²⁹ while ERISA specifically states that it is a criminal offense for the fiduciaries of benefit plans to "embezzle, steal, or unlawfully and willfully abstract or convert" the plan's funds.³⁰

Some rules proscribe conduct that is not covered by federal law. For example, Chapter I, § 3(d) requires union officers to maintain records documenting their reasons for selecting a particular vendor. Moreover, in selecting vendors, officers must adhere to the code's conflicts of interest prohibition.³¹ There can be no contracting between the IBT and entities that union officers (or their spouses or minor children) control or in which they have a significant interest.³²

The rule prohibiting Teamsters from associating with expelled members and LCN members goes beyond federal law, which does not outlaw such contacts. The code bans Teamsters from associating with "a member or associate of an organized crime family." Even "socializing at parties, weddings, and funerals" is prohibited. Only "unavoidable" or "fleeting and casual" encounters are exempted.³³ Furthermore, the code prohibits IBT members from associating with individuals whom the IRB had expelled from the union.

The code's proposed enforcement machinery calls for three new institutional positions to enforce the substantive rules. An International Ethics Officer is responsible for generating a code of procedures for disciplinary hearings, for elaborating further commentary on the code of conduct, and for issuing interpretations of the code as questions arise. An International Investigations Unit has the power

to investigate and with the permission of the GEB, to prosecute the alleged code violators before the International Master Panel.³⁴

The International Master Panel, comprised of five regional panels, would hear disciplinary cases unless the GEB-preempted jurisdiction. However, the code states that the GEB *must* assert jurisdiction over disciplinary charges involving organized crime.³⁵ A regional panel's decision is not binding. It could recommend sanctions, but the GEB would ultimately decide whether to discipline, and if so, the appropriate sanction.³⁶ This was the code's most controversial feature. Critics, such as the TDU and the Association for Union Democracy³⁷ opposed giving final disciplinary authority to the GEB, rather than to an independent body that did not report to the general president (Eidlin, 2000).³⁸ The U.S. Attorney's office also opposed assigning final disciplinary authority to the union's GEB and general president, presumably because it lacked confidence that the IBT has the will to move against corruption and racketeering.

The very process of drafting the code was an impressive example of rank and file democracy. The committee members devoted a great deal of time and attention to the drafting process. Only once did some members of the advisory board question the bona fides of the effort. At the last scheduled drafting session (held in Dallas, TX on May 5, 2001), the IBT's general counsel (who had not previously attended drafting sessions or commented on drafts) brought to the committee table an alternative draft of the entire code and, without dissent, the committee put aside more than a year's work and began to examine the proposal. The IBT general counsel withdrew the substitute draft only when the advisory members protested.

While the IBT's general president and GEB expressed support for the code, they did not adopt it formally. Hoffa finally scheduled the draft for formal GEB approval in October 2000 after being prodded by Stier. However, he only submitted the code-adoption process for approval and not the code itself. The Project RISE timeline that Hoffa had previously approved required submitting the code to the membership via special union meetings, but this was not done (Project RISE, n.d.). The GEB voted not to adopt the proposed code until the IRB was dissolved, because it wished to avoid two parallel, and perhaps overlapping and competing disciplinary systems. At the 2001 IBT convention, the delegates approved the GEB's position and "a resolution on self-government calling for dissolution of the consent decree and the end [of] government oversight" ("Teamsters Reaffirm," n.d.). Stier continued to press for the code's adoption until he resigned on April 28, 2004.

Nationwide Investigation of Cosa Nostra's Influence over IBT Locals and Joint Councils

Stier and Kossler launched investigations to determine the current status of organized crime's influence in the IBT's some 700 local unions and 63 Joint Councils.³⁹ They combed old criminal and civil cases for evidence or allegations of

organized crime influence. Ultimately, they investigated 80 locals. Kossler presented the results of his work to Stier, the Project RISE advisory Board, the GEB, and the U.S. attorney.⁴⁰

To demonstrate the IBT's ability to assume the responsibility for keeping itself free of organized crime, Stier considered it essential that Project RISE develop and "prosecute" administratively some cases on its own.⁴¹ He asked Kossler to investigate certain locals not already under the scrutiny of either the IRB, the FBI, or the U.S. Department of Labor (DoL).

In 2001, Kossler uncovered several instances of an as-yet undiscovered LCN activity within IBT locals. A member of (Queens, NY) IBT Local 295 was identified as a Lucchese crime family soldier. Stier gave this information to the IRB, which subsequently brought disciplinary charges that led to the individual's resignation. Kossler also uncovered LCN-directed benefit fund embezzlement within (Miami, FL) IBT Local 390, and LCN-connected official corruption in (Philadelphia, PA) IBT Local 107. Subsequently, Kossler also uncovered contacts between a notorious Genovese crime family member⁴² and IBT vice-president (and IBT Local 701 president) Donato "Don" DeSanti. The IBT itself charged DeSanti with "breaching his constitutional and fiduciary duties and bringing reproach upon the union" (Greenhouse, 2003: B5). DeSanti resigned his union positions and agreed to a lifetime ban from the IBT ("DeSanti Cops a Plea," 2003).

The investigations and subsequent disciplinary actions against Local 107/Local 701⁴³ and Vice President DeSanti were major successes for Project RISE. The IBT's disciplinary action against the high-ranking DeSanti supported the Hoffa administration's claim of willingness to pursue racketeering allegations wherever they were found and might lead.⁴⁴

The Twentieth Century History of Organized Crime's Influence in the IBT

Project RISE's third prong was the production of a comprehensive history of the relationship between organized crime, the IBT, and the federal government. Stier's las partner, Howard Anderson, oversaw this project. The 600-page *The Teamsters: Perception & Reality* (2002) is a scholarly book-length history based upon a comprehensive examination of existing scholarship, the fruits of the field study and the knowledge of some of the advisory board members.

The purpose of this study is not altogether clear. Indeed, it is likely that different individuals involved in producing the study had different goals in mind. To be sure, the Hoffa administration hoped that such an unprecedented self-examination would contribute to persuading the U.S. Attorney and the federal district judge that the IBT was (1) ready to face up to a dark part of its history and (2) that this history would show that the forces that had created and nurtured the alliance between the Cosa Nostra and the IBT are no longer operative. Stier saw the study as contributing to his efforts to change the culture of the union by providing the membership

with a picture of the legacy that had to be rejected. Anderson, no doubt, was preoccupied with writing a comprehensive and accurate history that would be recognized as scholarly and objective. The report itself explains:

There are several reasons why it is important to address the reality underlying the long-standing perception that the Teamsters have been and still are controlled by organized crime. First since the early 1980s, alleged organized crime domination of the Teamsters has been used to justify placing certain Teamster locals under government-supervised trusteeships and, beginning in 1989, subjecting the entire IBT to a government monitoring program. This report, it is hoped, will help the appropriate law enforcement agencies, as well as interested members of the public and their elected representatives, determine whether and to what extent such monitoring is currently necessary.

Second in 1999, shortly after James P. Hoffa became the president of the International Brotherhood of Teamsters, the Teamsters embarked upon Project RISE, an ambitious program of internal reform study and reform designed to root out and prevent recurrence of any racketeer infiltration of the union. Understanding the nature and history of the Teamster relationship with organized crime and the actual mechanisms used by racketeers to infiltrate the union is an integral part of the reform effort.

The most important reason for conducting the organized crime study and submitting this report, however, is to render an accounting to the 1.4 million Teamster members who for more than a generation have been stereotyped by the union's organized crime legacy and by a one-sided public image that has been shaped almost entirely by outsiders. Beginning with the widely publicized McClennan Committee hearings of the late 1950s, congressional investigators, law enforcement agencies, and journalists covering Teamster-related scandals have been the chief contributors to the public record concerning Teamster involvement with organized crime.

While scholarly and mostly quite objective, the Report (perhaps not surprisingly) also contains hints of defensiveness. For example, the passage quoted above acknowledges the reality of organized crime's historical influence over the IBT, but then casts doubt by calling it "alleged." The book characterizes the trusteeship that resulted from a settlement signed by the IBT and enforced by a federal court as a "government monitoring program" rather than as a court-enforced settlement of civil racketeering charges.⁴⁵

Two remarkable appendices, one released to the public and the other kept confidential, provide good reason to be cautious about declaring victory over labor racketeering in the IBT. The public appendix provides an assessment of the contemporary status of corruption and racketeering in the 80 IBT locals that the Kossler team investigated. It sorts these locals into three categories. Category A consists of 49 locals "where there is no demonstrable evidence of organized crime or influence, and where present conditions suggest that infiltration by organized crime will be highly unlikely." Category B consists of 16 locals judged to have no present-day organized crime presence or influence but which nevertheless "warrant increased vigilance because these conditions could develop into an environment hospitable to continued efforts by organized crime to gain control or influence." Category C consists of 15 locals "where there is demonstrable evidence of suspected organized

crime control, influence, or presence, evidence of criminal conduct, or an ongoing IBT investigation.” The confidential appendix identified unresolved organized crime and corruption issues relating to some locals, especially in the Chicago area.

The IBT leadership lauded the report as a “clean bill of health” for the union. General President Hoffa announced that “This document shows that the Teamsters Union is winning the fight against organized crime influence. I’m proud to say that this report shows that the Teamsters Union is clean.⁴⁶ According to Stier, “the days of domination and significant infiltration of the Teamster’s Union by organized crime are over . . . Today’s Teamsters are committed to keeping organized crime out of the union . . . *and vestiges of organized crime that remain have been identified and are under investigation.*” But a close reading of the report suggests a need for a more cautious view. For example, the final chapter warns that “only time will tell whether reduced federal pressure will allow Cosa Nostra to rebound. [Certainly it is too early to pronounce the final demise of a crime syndicate that has survived many changes during its long history.”

III. Demise of Project RISE

In July 2003, Hoffa rejected Stier’s recommendation to bring charges against three IBT Local 786 members. That fall, Stier and Kossler perceived that certain Hoffa advisors were trying to limit or terminate the Chicago investigations. In December 2003, the investigation of Local 786 was narrowed substantially. In early 2004, the IBT failed to process reimbursements for Project RISE investigators working in Chicago. In February 2004, Hoffa ordered Stier and Kossler to suspend all investigations, pending Hoffa’s inquiry of the Chicago situation. On April 1, 2004, the full-time IBT staffer assigned to Project RISE was transferred to another unit.

Edwin Stier and James Kossler resigned on April 28, 2004,⁴⁷ charging that General President Hoffa had refused to take action against a corrupt Texas local and had paralyzed their investigations of LCN influence in the IBT’s Chicago-area locals and joint council. In a press release Stier charged that Hoffa had blocked investigations into kickbacks to officials of (Houston, TX) IBT Local 988, and refused to institute a trusteeship over that local as RISE investigators had recommended (“Former Ethics Watchdog,” 2004). Furthermore, according to Stier, Hoffa had failed to permit investigation into alleged benefit fund embezzlement by the Chicago “Outfit.”⁴⁸ Stier sent a confidential letter (see Appendix I) to the GEB explaining that his position had become untenable. He criticized Hoffa for reneging on his public promise that “If there are any hidden mob associates in the union, we will identify and remove them.”⁴⁹ He accused Hoffa of shutting down investigations into organized crime influence, and failing to implement the ethics code.

The IBT defended itself by charging that Project RISE had become too expensive and intrusive (on union autonomy). The unions’ general counsel wrote: “It appears that Stier resigned because I wouldn’t give him a blank check, even when

the allegations he wanted to investigate were unfounded and outside the union's jurisdiction" (Szymanski, 2004: 22). Furthermore, Hoffa wrote: "Stier's resignation leads to the inescapable conclusion that his decision to step down at this time was because he did not want to answer legitimate questions about the credibility and significance of uncorroborated allegations he has made" (Hoffa Statement, 2004). Hoffa hired Edward McDonald, a former organized crime prosecutor (and currently defense lawyer) to investigate the allegations of organized-crime influence in the Chicago IBT locals. Approximately one year later, McDonald made public a version of a lengthy report that concluded that RISE's allegations of organized crime influence over Chicago IBT locals were unsubstantial and unreliable (McDonald & Gilbert, 2005). The Report offers the Hoffa administration's explanation of the events leading to Stier's and Kossler's resignations. According to the Report, the IBT leadership was dissatisfied with the results that Stier had achieved given the millions of dollars spent. Perhaps most important from the IBT perspective, Project RISE had failed to achieve the termination of the IRB.

IV. Conclusion: The Potential and Limits of Internal Self-Reform

Edwin Stier sought to establish an internal anti-corruption and anti-racketeering machinery grounded in a culture of organizational integrity. Stier put his considerable reputation on the line by vouching for the bona fides of the Hoffa administration's anti-corruption and racketeering effort. When it became clear that the IBT would no longer permit Project RISE to investigate corruption as it saw fit, and he and James Kossler resigned.

The demise of Project RISE highlights the magnitude of the initial challenge—to change fundamentally a massive union with a long history of organized crime infiltration and racketeering. Both the politics and mechanics of reform are daunting. In retrospect, Stier could not have succeeded without the support of a constituency for reform. The IBT's commitment to Project RISE was tentative, conditional, and strategic. Hoffa explicitly stated that he supported Project RISE in order to obtain the IRB's dissolution. As time passed, the U.S. Attorney's office made it clear that implementing the Project RISE ethics code and enforcement machinery would not be sufficient to obtain its agreement that the IRB should end. The U.S. Attorney required some kind of investigative and disciplinary machinery independent of the IBT and the GEB, perhaps along the model that was implemented in the Laborers' International Union.⁵⁰ When Hoffa realized that Stier could not help him rid the IBT of IRB oversight in the immediate future, he lost interest in RISE and withdrew his support. Perhaps Hoffa was influenced in this decision by a powerful Chicago IBT faction which bridled at being investigated by RISE, but this is just speculation.

TDU was a natural constituency for Stier's reform agenda, but it never supported RISE. TDU's leaders were suspicious of the Hoffa administration and therefore of Stier. Furthermore, TDU, as an oppositional caucus, instinctively plays the

role of the critic. Its newsletter, *Convoy Dispatch* alternately described Stier as a creature of Hoffa's administration ("Hoffa's Project RISE director, Ed Stier" or "Hoffa's consultant, Ed Stier") or as the head of "a corporate law firm" ("International Union," n.d.). Stier reacted negatively, and sometimes angrily, to TDU's criticism.⁵¹ Their relationship deteriorated into conflict.

Perhaps Project RISE could have done more to generate support among the rank and file? Toward that end, Stier might have convened union forums around the country to develop for *Perception and Reality* personal stories of individual Teamsters suffering at the hands of organized crime. *The Teamsters: Perception and Reality* itself was far too long and scholarly to be useful in mobilizing the rank-and-file Teamsters on behalf of reform.

Project RISE's demise is likely to make future IBT reform even more difficult. Rank and file union members took risks in meeting with Project RISE's investigators. Will some of them face retaliation? Will they and other Teamsters be willing to step forward in the future?⁵²

The collapse of internal reform highlights the importance of the IRB. The U.S. attorney's office made no formal comment on Project RISE's demise, but it is inconceivable that, given Stier's charge of ongoing LCN influence over Chicago IBT locals and perhaps the international office itself, that the U.S. attorney will recommend the IRB's discontinuation in the foreseeable future. The IRB continues to carry out investigations and disciplinary hearings, continues to suspend and expel members and officers and to make recommendations for trusteeships, including, most recently, Joseph Bernstein—vice president of (Chicago) IBT Joint Council 25.⁵³ In the wake of RISE's demise, the IRB charged Carlow Scalf, a top aide to Hoffa—whom Stier blamed for blocking RISE's investigations into Chicago corruption—with taking IBT housing allowances to which he was not entitled. Scalf later resigned from the IBT⁵⁴ after being fined by the IRB (Ryan, 2003). The IRB's relentless purge of Teamster officials with organized-crime connections is bound to have an impact; if nothing else, it creates space for reformers to emerge at the local level.⁵⁵ The likelihood of IBT reform is greatly improved by the existence of TDU, by far, the largest, best organized, and most solidly entrenched rank-and-file union reform organization in the U.S. labor movement. One can ask whether TDU's goals would have been furthered had Project RISE remained intact, and if so, what actions TDU might have taken in support of RISE?

It would be a mistake to conclude that Stier, Kossler, and Howard Anderson did not achieve anything. They carried out some important investigations and provided a valuable overview of the current state of labor racketeering in the union. *The Teamsters: Perception and Reality* is an important contribution to the historical record on Cosa Nostra's relationship to IBT. The ethics code is an impressive document, and remains available for future implementation. Still, it is disappointing and depressing that so much of Project RISE's reform effort appears to have been for naught. Much of its investigative knowledge of corruption and racketeering will never be exploited. True, a great deal of investigative information has been

turned over to the IRB and the U.S. Attorney, but the resources of these offices are limited. An external monitor cannot achieve the comprehensive results that a properly functioning internal investigative/disciplinary machinery could have brought about. Therein lies the tragedy.

Appendix I

Edwin Stier's Resignation Letter to the IBT General Executive Board April 28, 2004

When Jim Kossler and I first appeared before the General Executive Board in July 1999 to present an anti-corruption plan intended to make the Teamsters Union capable of protecting its members from organized crime and systemic corruption, I delivered a warning. I told you that before retaining us, you needed to consider whether you would be willing to hold friends and political allies accountable to the standards of conduct by which all Teamsters are bound. I said then, and repeated often, that if I concluded that the union's leadership was not fully committed to fighting corruption, I would resign.

The General Executive Board as a whole and hundreds of Teamster leaders throughout the United States and Canada have worked hard over the past five years to transform the culture and reputation of the union from tolerance to steadfast resistance to corruption. I have come to admire the courage and sincere commitment they have shown and it is clear that their efforts have been enthusiastically embraced by the membership of the union.

However, in spite of our efforts to convince General President Jim Hoffa to remain committed to fighting corruption, I have concluded that he has backed away from the Teamsters' anti-corruption plan in the face of pressure from a few self-interested individuals. Because the General President plays such a critical role in enforcing standards of conduct within the union, my position has now become untenable. I can no longer permit my presence in the union to act as an endorsement of his sincerity. It is, therefore, with great regret that I tender my resignation effective immediately and inform you that the investigative infrastructure that Jim Kossler and I created to protect the union from organized crime no longer exists.

In terminating my relationship with the union, I think it is important to inform you of what the program has accomplished and where it has failed. Project RISE, which became synonymous with the union's wide range of anti-corruption efforts, had an extraordinarily ambitious goal—creating a culture among its 1.4 million members that would deter corrupt behavior, resist penetration by organized crime, and enforce standards of conduct fairly but firmly throughout the union. No organization that I am aware of has gone to the lengths that the Teamsters Union has to deal with the threat of corruption.

At the outset, Jim Kossler and I created an organization to carry out the mission of Project RISE on the scale to which the union had committed itself. We identified highly experienced ex-law enforcement agents specializing in organized crime

and labor racketeering investigations from around the United States and the union retained them. Immediately they began to gather information for an assessment of the current level of organized crime in the union and to formulate a strategy for its removal. At the union's direction, these investigators and I began to follow up on information we received by documenting evidence so that the union could act on it thereby fulfilling its legal duty to protect its members from exploitation by racketeers.

To facilitate our investigations, Jim Kossler and I met with representatives of the FBI, Department of Labor, and U.S. Attorneys' offices from around the United States. We made great progress toward overcoming decades of mistrust between the union and law enforcement by expressing our belief in the sincerity of the union's support for Project RISE and by describing our approach to investigations. As a result, we created a network of government support that is essential to combating organized crime influence in the union.

The core mission of Project RISE, however, has been to engage the membership in the effort. No enforcement system can ultimately succeed without the support of the community it serves. Therefore, we assembled a task force of Teamsters who were truly representative of the union to propose a code of conduct reflective of Teamster values and an enforcement system that would become integral to the union. They worked diligently for a year attending 30 full day meetings and reading and commenting on thousands of pages of documents. Twice during the task force's deliberations, the draft code was circulated throughout the union for comment. It was to serve as the union's proposal in negotiations with the U.S. Attorney's Office, Southern District of New York, for modification of the consent decree that is currently in effect.

In late 2002 we released a 600-page report entitled, "The Teamsters: Perception and Reality—An Investigative Study of Organized Crime Influence in the Union." That historic document described the history of organized crime in the union, analyzed its origins, assessed its current level, and suggested a plan for the union to eradicate its vestiges. The most valuable contribution of the report was to make the case that organized crime is not inherent in the Teamsters Union. It originates from external sources, but will remain a threat to the union so long as racketeering is imbedded in the communities and industries in which the union operates.

Finally, we assembled a board of advisors whose reputations in the fields of law enforcement and labor are unparalleled. The advisors lent their time and reputations to guiding Project RISE and publicly supporting the union's sincere commitment to fighting corruption. In total the union has spent \$15 million on Project RISE.

As I have traveled throughout the union for the past five years speaking to thousands of Teamsters, I have been overwhelmed by their responsiveness. Project RISE is universally known among them and the vast majority whom I have met express pride in the commitment their union has made to self policing. Despite the success of Project RISE on many levels, Jim Hoffa has inexplicably retreated from the pledge he made in his message in the October 199 issue of Teamster magazine:

I am absolutely committed to our new anti-corruption program because I believe it is essential to our long-term success and growth. . . . If there are any hidden mob associates in the union, we will identify and remove them.

Jim Hoffa has not presented the union's own code of conduct to the government as an essential element in any modification of the consent decree. More importantly, he has permitted anti-corruption investigations to be undermined to a degree that honest Teamsters who came forward with information believing that the union would protect them, now feel abandoned. They are convinced that once again those who have influence in the General President's office have immunity.

I will summarize two examples. The first occurred in a corruption case, the magnitude of which dwarfs any in recent years. The stakes were high because the corruption allegations were widely known and our investigation indicated that witnesses were at great risk for retaliation. As the result of intense lobbying on behalf of the union officials under investigation, Jim Hoffa resisted imposing a trusteeship and only reluctantly appointed a panel of Teamsters to consider whether a trusteeship should be established. The hearing panel held extensive hearings in a very contentious atmosphere. The panel was constitutionally mandated to issue its findings within 60 days from the receipt of the hearing transcripts. The panel did not do so. Instead, a trusteeship was finally imposed only after the IRB proposed charges against the local's two senior officers. Had the IRB not acted, it is extremely doubtful that the union would have done so.

At the very least, Jim Hoffa failed to assure that the Teamster Constitution was followed. Rather than creating an atmosphere in which serious allegations are resolved expeditiously and fairly, the record of this case leaves the clear impression that the union is slow to react to corruption issues and is insensitive to witnesses' justifiable fears of retaliation.

The second example arises out of our ongoing mission to investigate organized crime activities in the union. As our organized crime study points out, much of the racketeering influence in the union has been removed through the efforts of federal law enforcement and the IRB. However, some pockets of organized crime remain. Most of our recent investigative efforts have been concentrated in one metropolitan area where organized crime remains a serious problem in business and politics, and is a threat to the union.

Over the past year, as our Investigative efforts became more known to potential subjects and their allies, we began to experience active resistance from the General President's office. It soon became clear that the pressure was emanating from individuals whose interests were threatened by our investigations. Last September, we received intelligence information from several sources suggesting that a coordinated effort was under way to shut down our efforts in that area and that the power of the union itself was being used to achieve that objective. I immediately informed the General Counsel about this development and the concerns it raised.

During the next several months, the pressure to undermine our investigations

intensified to a point where I finally informed the General Counsel that I felt compelled to prepare a comprehensive report on the investigations and recommend a course of action. Jim Hoffa would then have a clear choice of whether to take the steps necessary to restore the credibility of the anti-corruption program or remain passive. While the report was being written, the pressure against us increased and I began to receive calls informing me that the General President's office was circulating information that Project RISE was being shut down.

The General Counsel and I agreed that when the report was submitted, I would meet with Jim Hoffa and others to discuss further action. No such meeting occurred, Jim Hoffa has refused to meet with me. Instead he has surrounded himself with political consultants and lawyers. I have been informed that rather than permitting the investigators who have worked for years to build trust among sources in organized crime as well as the union to continue to investigate, the issues are being distributed to the IRS and the Department of Labor. I have no lack of confidence in both organizations, but such a shift in responsibility can only result in a loss of momentum and a disruption in continuity thereby reducing the chances of successfully completing the investigations. It is also a further expression of the union's lack of commitment to self-policing.

The only aspect of the investigations that is not being referred has to do with the conduct within the General President's office. That will be handled by a lawyer selected by Jim Hoffa. Of all the matters discussed in our report, this is the one that most requires referral to the IRB. Jim Hoffa will likely be a witness, as will others with whom he has had long-standing close personal relationships.

Based upon Jim Hoffa's reaction to our report, in which we have made it clear that we have substantial reliable information that organized crime again threatens the union, I have become convinced that my continued efforts and those of our investigators to create an anti-corruption program for the Teamsters Union would be futile. I can only hope that some of you and other Teamster leaders will one day pick up the pieces of what many in the union worked so hard to build and finally achieve the goal of institutional integrity that I know is possible.

Notes

1. See Complaint, *United States v. International Brotherhood of Teamsters, et al.*, (No. 88 Civ. 4486); *United States v. International Bhd. of Teamsters*, 726 F. Supp. 943 (S.D.N.Y. 1989) (upholding the powers of the administrators after the General Executive Board denied them the necessary funds to operate effectively), *United States v. International Bhd. of Teamsters*, 735 F. Supp. 502 (S.D.N.Y. 1990) (compelling the Teamsters to consent to the publication of disciplinary charges against the union's officers), *United States v. International Bhd. of Teamsters*, 728 F. Supp. 1032 (S.D.N.Y. 1990) (holding that the consent decree bound all the subordinate entities and locals of the IBT and that no court challenges to the consent decree could be filed by these parties in before any judge other than Judge Edelstein.)
2. *Ibid.* at 1392 n.2. The complaint was amended to reflect the fact that Jackie Presser died before the lawsuit was settled, but his estate was still a party to the suit at that time. See *Ibid.* at 1407.
3. See 18 U.S.C. § 1964 (a) ("The district courts of the United States shall have jurisdiction to prevent and restrain violations . . . by issuing appropriate orders, including . . . ordering disso-

- lution or reorganization of any enterprise[.]”); *see also* 18 U.S.C. § 1964(b) (“The Attorney General may institute proceedings under this section.”)
4. *See e.g. United States v. International Bhd. of Teamsters*, 19 F.3d 816 (2d. Cir. 1994) (upholding an expulsion of an LCN connected IBT official on typical grounds, and describing the investigatory process and its authority under the consent decree to investigate and expel union members for corruption.)
 5. Ron Carey, a reformer, was elected general president in the first post settlement election in 1991. *See* Kenneth C. Crowe, *Collision: How the Rank and File Took Back the Teamsters* (1993). In 1996, Carey narrowly won election over defeated Hoffa, the son of the legendary former general president, James R. Hoffa. *See* Andrew W. Dean, *An Offer the Teamsters Couldn't Refuse: The 1989 Consent Decree Establishing Federal Oversight and Ending Mechanisms*, 100 *Columbia Law Review* 2157, 219–93 (2000). The court-appointed elections officer voided the election on account of the Carey campaign using IBT money on behalf of the Carey slate. Then, after a hearing it expelled Carey from the union. A rerun election held in 1998 resulted in Hoffa's victory. Carey was indicted for perjury before the grand jury and for making false statements to the Chief Elections Officer of the IBT and to the Independent Review Board, and later acquitted (*See* Steven Greenhouse, “Former Teamsters President is Cleared of Lying Charges,” *New York Times*, Oct. 13, 2001, B1), but the expulsion order remains in effect, despite Carey's arguments that the testimony from a key witness at the hearing was found to be perjurious. *See United States v. Int'l Bhd. of Teamsters*, 247 F.3d 370 (2d. Cir. 2000).
 6. Much information about Project RISE could formerly be found on the web, before the resignation of Ed Stier and the termination of the program by James P. Hoffa. However, much of the web pages taken off the Internet can still be viewed, by using the Internet Archive's “Wayback Machine” feature. *See e.g.* Project RISE: Basic Principles of the Plan at <http://web.archive.org/web/2002112224101/http://www.teamsters.org/rise/principl.htm>, Origin of the Plan, at <http://web.archive.org/web/20021122212257/www.teamsters.org/rise/origin.htm>, Project RISE: Phase I, at http://web.archive.org/web/20021122215110/www.teamsters.org/rise/phase_1.htm, and Project RISE Press Releases, at <http://web.archive.org/web/20021122224623/www.teamsters.org/rise/press.asp>.
 7. International Brotherhood of Teamsters' press release, *Hoffa Testifies before House Subcommittee*, Mar. 29, 2000.
 8. Hartz was also appointed as special counsel to the IBT. A short time after the code was completed President Bush appointed Hartz to the Court of Appeals for the Eleventh circuit.
 9. The TDU member was Ron Tenity, an active TDU member and Business Agent of IBT Local 206.
 10. Though an outspoken and active reform organization, TDU consistently criticized the actions of the Independent Administrator and the IRB.
 11. Kossler did not have a formal title, but the IBT announced his job duties as “assist[ing] Stier in conducting an independent study to identify and determine the level of organized crime influence that remains within the union.” *See Hoffa Announces Anti-Mob Initiative 1999*.
 12. One of the authors of this article, Jacobs, served as a member of the Advisory Board.
 13. For history of the previous attempts at corruption control in the Teamsters' Union, *see* Witwer 2003.
 14. Personal Interview with Robert C. Stewart, Mar. 27, 2005.
 15. Ethics Code, Second Published Draft, on file with author, introduction to section 1 (hereinafter Code of Conduct). This version is more forthright than its predecessor, referring directly to the need to keep organized crime out of the Teamsters.
 16. Code of Conduct, Preliminary Materials, “Teamster Core Values.”
 17. Code of Conduct, Preliminary Materials, “Basic Principles Outlining the Code” §1 (Referencing 26 U.S.C. §501(a).
 18. Code of Conduct, Chapter I, §2(a)(1)(B).
 19. Code of Conduct, Chapter I, §2(b)(1).
 20. Code of Conduct, Chapter II, § 1(a).
 21. Code of Conduct, Chapter III.
 22. On the organization of the A.B.A. Model Rules of Professional Responsibility and the function of that structure, *see* William H. Simon.

23. Basic Principles Outlining the Code, § 1(a).
24. Codified at 29 U.S.C. § 501(a).
25. Code of Conduct, Chapter 1, § 5(b)(i).
26. Code of Conduct, Chapter 1, § 1(a)(ii)(C).
27. Code of Conduct, Chapter 1, § 4(a).
28. Encoded at 29 U.S.C. § 1001 et seq.
29. Code of Conduct, Chapter 1, § 6(c).
30. 18 U.S.C. § 664) (tenses of the verbs adjusted.)
31. Code of Conduct, Chapter I, § 3(e).
32. Code of Conduct, Chapter I, § 1(a)(i)(A).
33. Code of Conduct, at Chapter I, § 1(b)(1).
34. Code of Conduct, at Chapter III.
35. Ibid.
36. Ibid.
37. "The Association for Union Democracy is a pro-labor, non-profit organization dedicated to advancing the principles and practices of democratic trade unionism in the North American labor movement." See Association for Union Democracy website, at <http://www.uniondemocracy.com>
38. Concerns about the unwillingness of the general executive board to discipline an individual with close ties to the IBT administration heightened in 2001 when an IRB report revealed that Hoffa had hesitated to take action against William Hogan, Jr. and Dane Passo, and again when Hoffa attempted to block the IRB from instituting disciplinary charges against Larry Brennan. See *United States v. Int'l Bhd. of Teamsters*, 167 L.R.R.M. 2157 (S.D.N.Y. 2001).
39. An IBT local is an organizational unit in which the members elect the officers and vote to approve bylaws. A Joint Council is a unit comprised of three or more locals, with officers being selected by delegates from the local unions.
40. See Stier et al. (2003). The book was comprised of a main volume and two appendices, the first of which was public, and the second, confidential.
41. *Perception and Reality*, stated that "only if the union continues on its present project and remains willing and able to respond appropriately when attempts at organized crime are detected, will it have demonstrated the success of its anti-racketeering reform program."
42. For an extensive description of Sciarra's earlier racketeering activities, see Jacobs and Santore.
43. One of these investigators was Robert DeBellis, a long-serving FBI agent.
44. The IBT had elected Donato "Don" DeSanti to the Teamster's General Executive Board as part of the Hoffa Unity Slate in the 2001 IBT general election. Perhaps the general executive board's willingness to bring disciplinary charges against DeSanti was meant to persuade the U. S. Attorney's Office that the union's internal investigations would not be swayed by a suspect's political connections.
45. See *United States v. Int'l Bhd. of Teamsters Local 282*, 13 F. Supp. 2d 401 (E.D.N.Y. 1998), *United States v. Int'l Bhd. of Teamsters Local 295*, No. 90 CV 0970, 1991 WL 35497 (E.D.N.Y. March 8, 1991), *United States v. Long*, 697 F. Supp. 651 (S.D.N.Y. 1988) (IBT Locals 804 and 808);
46. Comments of President Hoffa at the Press Conference held Thursday, October 3, 2002 at the National Press Club on the subject of the release of *Perception and Reality*, available at <http://web.archive.org/web/20021203104156/www.teamster.org/hoffa/percepandrealty.htm>
47. Stier's resignation letter was later posted online, at www.tdu.org/HoffaWatch/Stier_Resigns_Main/Stierletter.pdf. The resignations of the investigative staff and the Board of Advisors soon followed, see Greenhouse 2003:A1.
48. Press conference, as cited by Business Ethics Newslines, available at <http://www.globalethics.org/newslines/members/issue2.tmp1?articleid'0503041707567>
49. See Appendix I.
50. Other than Project RISE, the only other major union anti-corruption and racketeering program is the one instituted in the Laborers International Union of North America. While this effort is wholly run by the union, it was precipitated by a settlement with the Department of Justice that avoided the formal filing of a civil RICO suit that had already been drafted and served upon the union. The settlement required the union to put into place a comprehensive anti—racketeering

machinery operated by a group of ex-FBI agents and DOJ prosecutors in whom the DOJ had confidence. This "internal reform" differs significantly from Project RISE. While nominally the LIUNA investigative and disciplinary officers work for the union, they are in fact completely independent. The LIUNA president and GEB have made no attempt to intervene in or direct the investigative and disciplinary work, probably because it would have resulted in the government imposing an already signed consent decree imposing an IRB-type monitor. See Jacobs and Peters, p.247-248.

51. Carl Biers, Lecture at NYU Law School, Nov. 24, 2003 (discussing Stier's angry reaction at a Cornell speech when asked from the floor about criticism of Project RISE emanating from the TDU caucus) *see also* Carl Biers, The RISE program: trying to discuss the future of Teamster Reform at a Cornell University Forum, 150 *Union Democracy Review* No. 1, available at <http://www.uniondemocracy.com/UDR/63RISE%20at%20Cornell%20University.htm>.
52. To prevent the possibility of retaliation, Stier's handed over to the IRB the investigation files compiled by Kossler and his associates.
53. Bernstein was expelled after Stier uncovered evidence (which he later gave to the IRB) that he continued to associate with a banned member, former Joint Council 25 President William Hogan. See Herguth 2005:14.
54. Scalf allegedly resigned at Hoffa's request after the TDU asked that the judge to inquire as to the reasons why the IRB had fined Scalf.
55. See Bruno 2003 (recounting how rank and filers were able to take back a previously racketeer-ridden Chicago IBT local).

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