

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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

**DECLARATION IN SUPPORT OF THE INDEPENDENT INVESTIGATIONS
OFFICER’S APPLICATION FOR THE ISSUANCE OF SUBPOENAS
DIRECTING BANCO BILBAO VIZCAYA ARGENTARIA, S.A. (“BBVA”) and
CHASE BANK USA, N.A. TO PRODUCE SPECIFIED RECORDS**

1. I am Assistant Counsel to Joseph E. diGenova, the Independent Investigations Officer. I submit this declaration in support of the Independent Investigations Officer’s Application pursuant to the Final Agreement and Order in United States v. International Brotherhood of Teamsters, 88 Civ. 4486 (LAP) (“Final Order”), the court-approved Rules Governing the Authorities of Independent Disciplinary Officers and the Conduct of Hearings (“Rules”), 18 U.S.C. § 1965(c) and the All Writs Act, 28 U.S.C. § 1651, for subpoenas directing Banco Bilbao Vizcaya Argentaria, S.A. (“BBVA”) and Chase Bank USA, N.A. to produce to the Independent Investigations Officer no later than April 11, 2016, or within ten days after service of the subpoena whichever comes later, the documents detailed in the attached Application.

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

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

4. Pursuant to the Final Order and the Rules, the Independent Investigations Officer has initiated an investigation into Teamsters Local 104 concerning, among other things, embezzlement by Local officers.

5. Local 104 is located at 1450 South 27th Avenue, Phoenix, Arizona. (Ex. 3)

6. There were three full-time officers: Andrew Marshall (“Marshall”) was the Secretary Treasurer and principal officer of the Local. Frank Mendoza (“Mendoza”) was the Local’s President. Karla Schumann (“Schumann”) was Vice President of the Local. (Ex. 3)

7. There were sixteen Chase MasterCards issued to the Local’s employees. Kimberly Barbaro, Arnold Coronado, Joshua Graves, Randy Hancock, Alex Montes,

Kathy Tiihonen, Carlos Toledo, Kevin Thomas and Gregg Vandagriff were Business Agents employed at the Local. Hector Rivas was a Trustee at the Local, and Kevin Davidson was responsible for the Information Technology work at the Local. Lorene McCave was a full-time employee of the Local serving as Bookkeeper. (Ex.3)¹

8. Each of the aforementioned employees were issued Local 104 MasterCard Credit Cards through Chase Bank. The individual credit card account numbers are set forth in an Attachment to the proposed subpoenas. The Local paid the bills.

9. The Local also had a Visa Credit Card account at Banco Bilbao Vizcaya Argentaria, S.A. ("BBVA") and issued BBVA Visa cards to eleven of the Local's employees. All except Business Agents Carlos Toledo, Kevin Thomas, Gregg Vandagriff and Trustee Hector Rivas were issued BBVA Visa cards. The employees' names and account numbers are listed in the Attachment to the proposed subpoenas. The Local paid the bills.

10. Eleven of the credit card holders used both their union issued MasterCard cards and their BBVA Visa cards for expenditures they charged to the Local.

11. From January 12, 2016 through January 14, 2016, investigators from the Chief Investigator's Office conducted a review of the books and records of the Local's office in Phoenix. They discovered that many of the Local's records, including monthly credit card statements for both the Chase MasterCard account and BBVA Visa card account were missing².

¹ The sixteenth named Chase MasterCard cardholder was Local employee Dustin Howell.

² 29 U.S.C. 436. (Section 206 of the Labor Management Reporting and Disclosure Act ("LMRDA") In order to comply with the recordkeeping requirements of Section 206, the Local is required to maintain the following credit card information: 1) All credit card statements and payment information for amounts paid to credit card vendors; 2) All original, itemized receipts for each credit card charge, including itemized hotel invoices, transportation costs, and itemized meal receipts from restaurants; and 3) For group meal expenses, unions must also include (a) a written explanation of the specific union business conducted; (b)

12. It was also discovered that there was a pattern at the Local to pay routinely outstanding credit card bills without the required receipts submitted by the individual cardholder(s).

13. To date, the Local has not produced copies of its missing, yet paid, credit card statements.


14. The foregoing demonstrates that just cause exists for the issuance of subpoenas directing Banco Bilbao Vizcaya Argentaria, S.A. and Chase Bank USA, N.A., to produce the specified records which would assist the Independent Investigations Officer in the ongoing investigation of Local 104. Accordingly, just cause exists for the issuance of the subpoenas directing the production of the specified records.

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

Dated: New York, New York
April 1, 2016

Respectfully submitted,

Joseph E. diGenova
Independent Investigations Officer

By: 
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the full names and (c) titles of all persons incurring the food and beverage charges. OLMS Compliance Tip, Union Credit Card Policy, April 2010 (Ex. 4)

Banco Bilbao Vizcaya Argentaria, S.A.
Chase Bank USA N.A.

CERTIFICATE OF SERVICE

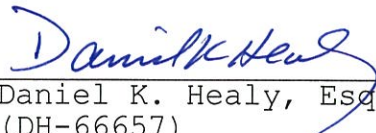
I, Daniel K. Healy, hereby certify that on April 1, 2016, I caused a copy of the foregoing INDEPENDENT INVESTIGATIONS OFFICER'S APPLICATION FOR THE ISSUANCE OF SUBPOENAS DIRECTING BANCO BILBAO VIZCAYA ARGENTARIA, S.A. ("BBVA") and CHASE BANK USA, N.A. TO PRODUCE SPECIFIED RECORDS and the DECLARATION IN SUPPORT OF THE INDEPENDENT INVESTIGATIONS OFFICER'S APPLICATION to be filed electronically and served upon the below by mail to anyone unable to accept electronic filing. Notice of this filing will be sent by email to all parties by cooperation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF system.

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