Busting the Mob

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Teamsters Local 560: United States v. Local 560 (IBT)
(Filed March 1982; Decided February 1984)

Introduction

*United States v. Local 560 (IBT)* is the most important civil labor racketeering case ever brought by the Justice Department against a union local.¹ *Local 560* broke new ground because it was the first time the Department of Justice brought a civil RICO action against a labor union. Unlike a traditional organized-crime criminal prosecution, this suit did not aim for a criminal conviction. Instead, the Justice Department sought to free Local 560 from the influence of organized crime by means of a wide-ranging civil injunction. The litigation that began in the early 1980s and continues into the early 1990s reveals the pervasiveness of organized crime's role in a "captive labor union," demonstrates the value of civil RICO as an anti-labor-racketeering tool, and highlights the problems a court-appointed trustee faces in returning a mob-dominated union to the rank and file.

Local 560, an unincorporated labor association chartered by the International Brotherhood of Teamsters (IBT), is one of the largest Teamster Union locals in New Jersey. It was once one of the most powerful IBT locals in the United States, but years of mob exploitation drained its resources and pressured honest members to seek work elsewhere. In May 1982, it had approximately ten thousand members employed by about 425 companies located in the metropolitan New Jersey-New York area.
Background

From the early 1950s, Local 560 has been controlled or influenced by Genovese crime family capo Anthony ("Tony Pro") Provenzano, his two brothers, and their hand-picked successors. Provenzano joined Local 560 in the late 1940s, became a business agent in 1952, and muscled his way to the presidency in 1960. As president, he appointed his brothers and enforcers to key positions as trustees, business agents, and shop stewards. He also placed family members and friends in well-paid positions as administrators of the welfare and benefit funds and on the payrolls of businesses that employed Local 560 members. The Provenzanos silenced dissidents and rivals who dared to challenge their rule by having them fired and blacklisted by Local 560 employers (who were dependent upon the union's cooperation and goodwill). Two union members who opposed Provenzano were murdered.

Provenzano's career in organized crime prospered along with his fortunes in Local 560. At some point in the early 1960s he became a made member of the Genovese crime family and turned Local 560 into a cash cow subsidiary of Cosa Nostra. Provenzano began by organizing thievery at the New Jersey docks. Over the next decade, he and his associates extorted labor peace payoffs from employers, sold out the rank-and-file members through sweetheart contracts with trucking firms, forced employers to put no-show employees on the payroll, and defrauded the union's benefit funds through phony loans and worthless or highly overpaid contracts with various service providers.

Criminal convictions did not hamper a member's advancement in the union. For example, after Nunzio Provenzano was convicted in a labor peace extortion scheme in 1963, his brother Tony appointed him as a business agent. In 1966, Tony and Nunzio Provenzano were imprisoned on separate convictions and Sam Provenzano assumed the union's presidency. While he awaited trial, the union paid all of Tony Pro's legal fees and voted him a lucrative five-fold salary increase that enabled him to amass some $240,000 while he served his prison term.

After release from prison, members of the Provenzano clique routinely returned to positions in Local 560 (in violation of federal labor law). Indeed, after he served five years in prison, Tony Pro was appointed secretary-treasurer. However, in 1978, the Manhattan district attorney successfully prosecuted him for murder of a union rival, which led to a sentence of life imprisonment. In 1979, at a federal trial, he and Gabe Briguglio, his longtime associate, were convicted of accepting payoffs from a major shipping firm in exchange for sweetheart contracts. After his murder conviction,
Provenzano's daughter assumed his position on Local 560's executive board and his brother Sam became president. In 1981, Nunzio was convicted federally on a similar sweetheart scheme involving four interstate trucking companies, and in 1983, Sam was convicted federally of dental-benefit-fund kickbacks. In 1984, the Provenzanos designated long-time associate Michael Sciarra as their successor. Thus, despite Tony Pro's and his two brothers' convictions and incarceration, organized crime's grip on Local 560 remained firm.

The Civil RICO Suit

March 1982 marked the beginning of the government's protracted attack on organized crime's labor racketeering in Local 560. The Newark Strike Force, in conjunction with the United States attorney for New Jersey, filed a 35-page civil complaint with a 300-page appendix documenting a quarter-century of racketeering domination and exploitation. The named defendants included Local 560, its pension and welfare funds, each current member of its executive board, and former executive board members Anthony and Nunzio Provenzano, Stephen and Thomas Andretta, and Gabriel Briguglio, all of whom had been convicted in individual racketeering cases. The government announced that it had targeted Local 560 because of its "lurid history of criminal activity."

The civil complaint charged two substantive violations of RICO and a RICO conspiracy. First, the complaint alleged that the individual convicted racketeers, aided and abetted by members of the executive board, had acquired and maintained an interest in Local 560 and its pension and welfare funds through a pattern of racketeering activity, including murder and extortion. In support of the allegation, the government included a long list of the previous criminal convictions of Local 560 officers and members. Second, the complaint charged the defendants with operating Local 560 and its benefit plans through a pattern of racketeering activity. It alleged numerous predicate offenses: mail and wire fraud, extortion, embezzlement from the union, hijacking cargo, and accepting kickbacks. Third, the government alleged a conspiracy among the defendants to acquire and maintain control of Local 560 through a pattern of racketeering activity.

According to the government, wide-ranging equitable relief was necessary because decades of organized-crime domination had created an environment of intimidation and terror. Purging the racketeers through criminal prosecution had proven ineffective against the Provenzanos' revolving-door policy. The government therefore sought appointment of a trustee to run the union
until organized crime and the conditions fostering it could be eliminated and
the union returned to its members.

Several important consequences flowed from the decision to use civil
RICO. Pursuant to the rules of civil procedure, the United States attorney
obtained a good deal of information about Local 560's operations through
civil discovery. The threat of being deposed by government counsel may have
convinced several defendants to settle by agreeing to be forever barred from
participating in Local 560 affairs. In addition, a single federal judge tried the
case, as defendants have no right to a jury trial in civil suits asking for
injunctive and other equitable relief. Furthermore, the government only had
to meet the lesser burden of proof (preponderance of the evidence) that
applies to civil cases rather than the beyond-a-reasonable-doubt standard that
applies in criminal cases.

During the five-month trial, which took place in 1983, Judge Harold
Ackerman heard from a number of different witnesses who occupied key
positions within the union. For example, he listened to testimony from Sam
Provenzano, the president of Local 560; Joseph Sheridan, the vice-president
of Local 560; Josephine Provenzano, Tony Pro's daughter and the secretary-
treasurer of Local 560 since 1978 when she was elected to that position at the
age of twenty-three; Michael Sciarra; and J. W. Dildine, the recording
secretary of Local 560 since 1968. Judge Ackerman listened as the witnesses
expressed their loyalties to Tony Pro and the other union leaders. Some
steadfastly refused to concede that Tony or Nunzi Provenzano was guilty of
the charges for which he had been convicted.3 Other witnesses testified that,
if it were possible, they would return Tony or Nunzi Provenzano to his
old position.

Salvatore Simno, a member of the Provenzano clique since the 1940s,
became a government witness and provided invaluable testimony. He linked
Anthony and Nunzi Provenzano to the Genovese crime family and de-
scribed the criminal activity and intimidation that assured the Provenzano
group's dominance of Local 560.

The trial resulted in a spectacular victory for the government. Judge
Ackerman found in the government's favor on all three RICO charges. All
members of the executive board were held to be accomplices on the grounds
that they had appointed known labor racketeers to union positions and had
failed to take any action to attack racketeering in Local 560 or to dispel the
aura of fear permeating the union. Specifically, Judge Ackerman held;

Local 560 has been since 1961, and continues to be a captive labor organization,
which the Provenzano Group has dominated through fear and intimidation and has
exploited through fear and corruption. . . . This victimization [of individual union members and segments of the trucking industry] [is] likely to recur as long as Local 560 remains a captive labor organization.

In support of his finding that the union had been captured by organized crime, Judge Ackerman pointed to the murders of Anthony Castellitto, a popular member of Local 560 during the late 1950s, and Walter Glockner, a vocal critic of the Provenzano group in the early 1960s; the extraction of labor peace payoffs by members of the Provenzano group; and the appointments to union office of former members who had been either indicted or convicted.4

The court stayed its remedial plan pending appeal. In December 1985, the United States Court of Appeals for the Third Circuit affirmed the district court’s judgment. The litigation entered its remedial phase, which has continued until the present time.

The Remedial Phase

Judge Ackerman temporarily suspended the executive board members of their offices during the active phase of the trusteeship. His remedial order provided for a court-appointed trustee with powers including, but not limited to, (a) all powers exercised by the executive board [of the union] under the constitution and by-laws; (b) all powers of those removed from office; (c) the power to negotiate and enter into contracts and to engage in collective bargaining; (d) the power to institute and settle litigation; and (e) the power to hire and discharge union employees and to set wages, conditions, and terms of employment for union employees.

Judge Ackerman did not place any limitation on the duration of the trusteeship; he provided for the trustee to serve “for a curative period of sufficient length . . . to effectively dispel the existing atmosphere of intimidation within Local 560, to restore union democracy, and to ensure (to the extent possible) that racketeers do not obtain positions of trust within the local.”5

In January 1986, Judge Ackerman appointed Joel Jacobson, an experienced union leader, as the court-appointed trustee. Upon assuming responsibility for the union, Jacobson immediately noted three major problems with Local 560: the lack of union solidarity (i.e., it was not uncommon for a shop steward to testify against a union member in a grievance hearing, an unheard-of practice in other American unions), the disarray of the records of the pension and welfare funds, and the lack of education and training
programs for the members. Thus, Jacobson decided that his main responsibility was to run the union competently and openly. However, he did not seem to draw a connection between reforming the union and rooting out the union's organized-crime elements; most of the business agents were left in place and the union continued to run much as it always had. Judge Ackerman did not agree with this strategy and ultimately replaced Jacobson in May 1987.6

       Edwin Stier, a former federal and state prosecutor, succeeded Jacobson.7 Stier was dismayed to find that Tony Pro's picture still hung on the wall of the Local 560 union hall, symbolizing the pervasive racketeering atmosphere. He immediately ordered its removal. Stier and his associate trustee assumed the day-to-day managerial functions of the union's executive board, investigating suspicious collective bargaining agreements and the operations of the pension and welfare funds, and nurturing union democracy by encouraging membership interest and participation.

       Stier believed that ultimately union democracy was the antidote for labor racketeering. Only when the rank and file became committed to taking control over their destiny would the yoke of organized-crime dominance be broken. The challenge, in Stier's view, was to convince the members that they could participate in the union without fear of retaliation.

       A free election, eventually scheduled for 1988, was the critical plank in his reform agenda. He had four goals for the election. First, he sought to encourage the formation of party tickets and the nomination of candidates. Second, he sought to assure that the members would vote, so he encouraged them to take an interest in and become involved in union affairs and politics. Third, he aimed to guarantee both the perception and the reality of a secret-ballot election. Fourth, he endeavored to assure that the election procedures (voter eligibility, ballot protection, tallying votes) guaranteed a fair process.8

       However, the Provenzano forces threw themselves into the electoral fray, organizing a ticket called "Teamsters for Liberty" (TFL), and long-time Provenzano henchman and former 560 president, Michael Sciarra, announced his candidacy for the presidency. (The other two tickets were the United Ticket and Wise Choice.)

       The government, represented by the same indefatigable assistant United States attorney who had filed the initial suit, Robert Stewart, returned to court to disqualify Sciarra from running for office. In the course of two preliminary injunction hearings (1988 and 1990) and a civil RICO trial (1990), Stewart presented testimony and tape recordings to show that Sciarra maintained regular contacts with Genovese crime-family members and that the Genovese family chose him to control the union. Sciarra's association
with the Provenzano group dated back at least as far as the early 1960s. He served the union as business agent (1972–86), as an executive board trustee (1981–1984), as president of the Local (1984–86), and as a trustee of the benefit-plan system (1983–86). According to Stier, the membership universally regarded Sciarra as the Provenzos' hand-picked successor.

Judge Dickinson Debevoise, who handled the Sciarra litigation, agreed with the government that Sciarra had to be disqualified:

The [Ianniello-Andretta] tapes constitute strong evidence that the Genovese Crime Family intended to maintain its control over Local 560 during the pendency of the appeal from Judge Ackerman's March 16, 1984 Judgement Order, during any pendency of trusteeship, and thereafter. The tapes constitute strong evidence that this control was to be exercised through Anthony Salerno's caporegime Mathew Ianniello, and that Ianniello, upon the advice of Stephen Andretta, selected Michael Sciarra to be the man on the scene at Local 560 to whom orders and instructions could be given.⁹

Judge Debevoise concluded that "if Sciarra . . . were to become President . . . there would be a very real danger that all the efforts expended during the trusteeship to free the union from racketeering control would be undone." Thereupon, the TFL substituted Michael Sciarra's brother Daniel as its candidate for the Local 560 presidency, presumably confident that Daniel would ensure the continuity of the Provenzano legacy in the union.

The election, held in December 1988, resulted in a resounding two-to-one victory for Daniel Sciarra and the TFL slate of executive board nominees (62 percent to 38 percent). The board immediately appointed Michael Sciarra as business agent; the Provenzano group seemed to have triumphed despite all the government's effort to remove them from the union.

According to a study by Linda Kaboolian of Harvard's Kennedy School, the TFL prevailed for a number of reasons. First, the membership viewed the former leadership of the union as the best-qualified and most experienced candidates—not surprising given that for decades members of the Provenzano group were the only union members allowed to participate in union management. Second, many members opposed the trusteeship and voted for continuity with the old regime. Third, the TFL was better organized and ran a stronger campaign than the opposition.

After the election, Stier turned over day-to-day management to the newly elected executive board and assumed the role of monitoring any renewed racketeering. Stier immediately determined that Daniel Sciarra, the new executive board, and much of the rank and file regarded Michael Sciarra as the de facto boss of the union. Indeed, the board proposed to appoint
Michael Sciarra to the additional position of trustee of the benefit plans. After thirteen months, the government again went to court, charging that Michael Sciarra continued to dominate the union despite the district court's injunction, and alleging that as long as he continued to have any role in the union's governance, by virtue of his charismatic personality and ties to the Genovese crime family, he would continue to exercise a dominant role. The evidence persuaded Judge Debevoise to expand the preliminary injunction and remove Sciarra from his position as business agent. A year later, after trial, Judge Debevoise issued a permanent injunction barring Michael Sciarra from holding any office or position of trust within Local 560 or from endeavoring to influence its affairs.

As long as Michael Sciarra holds any position within Local 560 he will be able through his forceful personality and through his hold on a large and vocal segment of the membership to dominate and control the Local and its pension and welfare funds. If he assumes power within the Union, it is highly likely that upon termination of the court-appointed trustee's oversight the Genovese Family would reassert control over Local 560, undoing all the efforts of the past eight years. . . . The return of Sciarra and, through him, Genovese Family influence, would crush the movement towards membership control and bring back the dark night of the strong arm and repression.\textsuperscript{10}

Thus, for the first time in the history of the American labor movement, an individual was enjoined from holding any union position based upon a civil adjudication that his continued involvement with a Cosa Nostra family posed a danger to the welfare of the union.

In September 1991, the union's executive board petitioned the district court for an early termination of the trusteeship on the grounds that its remedial objectives had been achieved with the issuance of the permanent injunction against Michael Sciarra six months earlier. The government argued that the board had acted irresponsibly in allowing Michael Sciarra to usurp its powers and in seeking to appoint Michael Sciarra as a benefit-fund trustee. According to the government, the board remained a tool of the Provenzano group and the union could not become free and independent while the executive board officers remained in office.

In February 1992, after hearing evidence for over seven days, the government and the executive board reached an interim settlement. Under the terms of this agreement, Daniel Sciarra resigned from the presidency but remained eligible to serve as shop steward. The office of president would remain vacant until the court called for a new election. Two other Sciarra loyalists on the executive board resigned and Stier named their replacements. The agreement also provided for an executive board comprised of three TFL
members and three independent union members, with the powers of the union presidency shared between one member from each group.

This settlement had to be revised when a TFL board member resigned. Under the new agreement, the executive board was comprised of four independent members and two TFL members (the seventh position on the board remained vacant). As of February 1994, Al Vallee, a union member not connected with the Provenzano-Sciarrà legacy, served as the president. Vallee had been the independent union member who previously shared presidential powers. Ed Stier remained the trustee and also retained his position as chairman of the Welfare and Pension Funds. While he no longer exercised day-to-day managerial authority, he continued to monitor the union and worked closely with the executive board to investigate any wrongdoing.

Conclusion

*United States* v. *Local 560* is a highly visible test case of the power and ability of federal prosecutors and courts to wrest control of captive labor unions away from Cosa Nostra and return them to their rank and file. Ten years of litigation and court-ordered change have not yet guaranteed that the future of Local 560 will be free of organized-crime racketeering. While some opposition to the Provenzano group has surfaced, it is still not clear that a solid majority of union members is in favor of ousting the racketeer element. The case demonstrates just how difficult it is to defeat Cosa Nostra once it is well entrenched in a labor union and has enjoyed the advantages of incumbency for decades, doling out favors to friends and imposing punishments on dissidents.

*United States* v. *Local 560* provides a valuable case study for determining the usefulness of civil RICO in the labor racketeering context. Criminal prosecutions alone, which only result in the replacement of one racketeer by another, cannot liberate a captive labor local such as Local 560. Civil RICO gives the court authority to issue wide-ranging equitable relief, including the appointment of a trustee who can remain on the job as long as it takes to transform the corrupted organization. Whether even this extraordinary relief will succeed in achieving its objectives remains to be determined.

In his testimony before the Senate Permanent Subcommittee on Investigations, Ed Stier stated that a trusteeship such as the one established for Local 560 aims to effect structural and cultural change within the union. Stier testified that in future trusteeships, success may hinge on three improvements: funding trusteeships from other than union treasuries in order not to make the membership resentful of government intervention, providing a
stronger and larger investigative team, and, perhaps most importantly, including organized labor in any solution to the problems of corruption and racketeering.

Finally, United States v. Local 560 demonstrates the important roles individuals play in the war against Cosa Nostra. Assistant United States Attorney Robert Stewart has been the driving force behind the government's efforts for almost a decade. He has authored or coauthored almost all the government briefs, coordinated communication with the court-appointed trustee, and given the case top priority. Without this kind of continuity and commitment it is unlikely that such a suit and remedial effort could be sustained. However, because of the typical tenure among federal prosecutors (who usually serve three to four years), this type of continuity is unusual. Moreover, Judge Ackerman and Judge Debevoise have been steadfast in their determination that the rule of law ultimately prevail in Local 560. Other judges, who might have been more wary of involving the courts so actively in "running a union," might have moved more cautiously and thereby doomed whatever chances of success in the civil racketeering strategy.

The court-appointed trustee, Ed Stier, has borne the brunt of the day-to-day work of reconstructing the union and standing up to countless threats and intimidations. Without his courage and steadfastness, his vision in developing a remedial strategy, and his energy, real change would not even be a possibility. It is a major challenge to find committed and competent trustees who have the mix of experience and skills necessary to attack corruption, promote union democracy, and administer labor unions.

The court's effort to purge racketeering and to restore union democracy in Local 560 might be likened to previous efforts in court-ordered institutional reform in the school-desegregation and prison-conditions contexts. There is no reason to believe that changing corrupt unions will be easier than changing segregated schools or improving jail and prison conditions. The unions are large and their memberships and activities decentralized and far flung. The leaders of unions like Local 560 are even more defiant of the rule of law and judicial authority than the most recalcitrant school, mental hospital, and prison personnel who were found to be operating their organizations unconstitutionally. Labor unions are not public institutions. Their leaders, being elected by the membership, are under no external pressure to abide by and facilitate court orders. Indeed, the labor movement has staunchly opposed the idea of RICO union trusteeships. In a recent poll, the majority of Local 560's members unfavorably compared the government to the former leadership. Until the time comes when a clear majority of union members desires and can freely and openly support clean candidates, the struggle to purge unions of mob influence will continue to be exceedingly difficult.
The Local 560 case also requires one to ask whether there are any limits on the scope of government intervention into the affairs of a union in the name of corruption control. The trustee of Local 560 was empowered to run the union; he had complete control over all union functions, including negotiating collective bargaining agreements, taking the union members out on strike, and handling grievances. Can a court-appointed trustee, no matter how well meaning, adequately represent the interests of the union members? Even if he can, is this consistent with the nation’s commitment to a free and autonomous labor movement? If court-appointed trusteeships become a regular tool of government crime-control policy, how do we develop measures of “success” that require their terminations? If success cannot be achieved, does the trusteeship remain indefinitely?

Chronology of the United States v. Local 560 (IBT)
Litigation: Partial List of Most Important Reported Decisions

United States v Local 560, 581 F Supp 279 (DNJ 1984) (Judge Ackerman’s opinion reviewing racketeering in Local 560 and granting the government wide-ranging injunctive relief).

United States v Local 560, 780 F2d 267 (3d Cir 1985) (criticizing the logic in part of the district court’s legal theory on the RICO counts, but affirming in all respects the district court judgment and remedy).

United States v Local 560, 694 F Supp 1158 (DNJ 1988) (Judge Debevoise’s opinion disqualifying Michael Sciarra from running for the presidency of Local 560).

United States v Local 560, 865 F2d 252 (3d Cir 1988) (affirming Judge Debevoise’s disqualification of Sciarra).


United States v Local 560, 736 F Supp 601 (DNJ 1990) (Judge Debevoise’s opinion granting temporary injunction against Michael Sciarra’s holding any position within Local 560).

United States v Local 560, 754 F Supp 395 (DNJ 1991) (Judge Debevoise’s opinion granting permanent injunction against Michael Sciarra’s participation in union affairs).

Notes

1. Organized crime’s labor racketeering has been the subject of several major congressional investigations and national commissions. The most recent is President’s Commission on Organized Crime, The Edge: Organized Crime, Business, and Labor Unions (Washington, D.C., 1986).
2. Even during the pendency of the civil RICO trial, Local 560–related criminal cases continued to be prosecuted. For example, in December 1983 president Sam Provenzano and long-time fund administrator Marvin Zalk were convicted in a fraud involving the union’s dental benefit plan.

In mid-1984 a law firm was retained by the new Local 560 president, Michael Sciarra, to provide prepaid legal services despite the conviction of an attorney from the firm for fraud and failure to account for five hundred thousand dollars from the 1-84 (IBT) “direct payment” plan.


4. Id. at 311.

5. Id. at 326.


7. Also at this time, Judge Ackerman provided for appointment of an associate trustee with the authority “to promote and enhance the spirit of participation in trade union affairs among the entire membership of Local 560 and to provide effective trade union representation in all areas of the Local’s activities.”


Appendix A

United States v. Local 560, Opinion of Judge
Harold A. Ackerman
(February 8, 1984)

HAROLD A. ACKERMAN, District Judge.

John L. Lewis, former president of the Congress of Industrial Organizations and the United Mine Workers once said that "Labor, like Israel, has many sorrows."

A careful review of the evidence in this unprecedented case reveals the verity of that observation.

It is not a pretty story. Beneath the relatively sterile language of a dry legal opinion is a harrowing tale of how evil men, sponsored by and part of organized criminal elements, infiltrated and ultimately captured Local 560 of the International Brotherhood of Teamsters, one of the largest local unions in the largest union in this country.

This group of gangsters, aided and abetted by their relatives and sycophants, engaged in a multifaceted orgy of criminal activity. For those that enthusiastically followed these arrogant mobsters in their morally debased activity there were material rewards. For those who accepted the side benefits of this perverted interpretation of business unionism, see J. Hutchinson, The Imperfect Union, p. 371, (1970), there was presumably the rationalization of "I've got mine, why shouldn't he get his." For those who attempted to fight, the message was clear. Murder and other forms of intimidation would be utilized to insure silence. To get along, one had to go along, or else.

It is important to state what the evidence in this case does and does not show.

It shows that a trade union which is by origin and nature a voluntary organization is susceptible to the malicious machinations of others, as Congress perceived in enacting the Landrum-Griffin and RICO Acts.

It does not demonstrate that unions or union officials in general are riddled with racketeering or corruption. Most authorities are convinced that the overwhelming number of unions and union officials are "untroubled by the problem of corruption." Id. Crooks and racketeers are anathema to a significant portion of the trade union movement.

* * *
I. The Parties

Defendant Local 560 is an unincorporated labor association which was originally chartered on May 11, 1911 by the International Brotherhood of Teamsters. As of May, 1982, it had approximately 10,000 members employed by approximately 425 companies in the metropolitan New Jersey-New York area. As such it is a labor organization engaged in an industry affecting interstate commerce within the meaning of Section 402 of Title 29 of the United States Code.

Under its constitution, seven elective officers are charged with managing the day to day affairs of Local 560. These officers are: a president, a vice-president; recording secretary; secretary-treasurer; and three trustees. These seven officers together constitute Local 560’s Executive Board. This Executive Board is generally authorized and empowered to conduct and manage the affairs of the organization between membership meetings.

Defendant Trucking Employees of North Jersey Welfare Fund, Inc. and its Pension Account are located in Local 560’s building in Union City. The funds were and are today welfare and pension benefit plans within the meaning of Section 1002 of Title 29 of the United States Code.

The Funds are controlled by a governing body which is composed of four trustees appointed by the Executive Board of Local 560 and four trustees appointed by two employer associations whose member companies have collective bargaining agreements with Local 560. The current employee trustees include defendant Salvatore Provenzano, defendant Stanley Jaronko, and defendant Joseph Sheridan.

The Local 560 Officers and Employees Severance Pay Plan is also operated out of Local 560’s offices. It is an employee benefit plan within the meaning of Section 1002 of Title 29 of the United States Code in that it provides severance pay benefits to the employees of Local 560. The current trustees of the Plan are Salvatore Provenzano and Josephine Provenzano.

A brief description of each of the remaining nine individual defendants may be useful at this point. First, Salvatore “Sam” Provenzano has been the President of Local 560 since approximately July of 1981, when the Executive Board appointed him to that position. Prior to that time he had been employed by Local 560 as a Business Agent between approximately November 10, 1959 and August 8, 1961; as a Trustee between approximately August 8, 1961 and November of 1965, and again between approximately January and May of 1966; as President between approximately May of 1966 and November of 1975; and as the Vice-President between approximately December of 1975 and July of 1981.

Joseph Sheridan has been the Vice-President of Local 560 since approximately
July of 1981, when the Executive Board appointed him to that position. Prior to that time he had been a Business Agent between approximately July 7, 1972 and September 1, 1978, and thereafter a Trustee between approximately September 1, 1978 and July of 1981.

Josephine Provenzano has been the Secretary-Treasurer of Local 560 since approximately June of 1978, when the Executive Board appointed her to that position. Prior to that time, she had been employed by Local 560 as an office worker from 1976 until the time of her appointment. Josephine Provenzano is the daughter of defendant Anthony Provenzano and the niece of defendants Salvatore and Nunzio Provenzano.

J. W. Dildine has been the Recording Secretary of Local 560 since approximately 1968, when the Executive Board appointed him to that position. Prior to that time he had been employed by Local 560 as a Business Agent between approximately 1963 and 1968.

Thomas Reynolds, Sr. has been a Trustee of Local 560 since February 9, 1977. Before that time, he was employed by Local 560 as a Business Agent between September 24, 1970 and February 9, 1977. He is the brother-in-law of defendant Nunzio Provenzano and the father of former Business Agent Andrew Reynolds.

Michael Sciarrara has been a Trustee of Local 560 since May 28, 1981. Prior to that time he was employed by Local 560 as a Business Agent between July 7, 1972 and September 30, 1976, and again between December of 1977 and May 28, 1981. Sciarrara has been a member of Local 560 since approximately 1954.

Stanley Jaronko has been a Trustee of Local 560 since July 13, 1981. Before that time, he served Local 560 in the capacity of Business Agent between December 12, 1977 and February 19, 1981, and as a Trustee between February 19 and May 28, 1981.

Stephen Andretta, who testified at trial pursuant to a grant of use immunity, was a Business Agent for Local 560 between approximately August of 1973 and October of 1976. His membership in Local 560 dates from the early 1950's, and he held the position of shop steward for Local 560 at Eazor Express Co. between the mid-1960's and August of 1973, and again between approximately October of 1976 and 1980.

The evidence at trial indicated that Stephen Andretta had known Salvatore Briguglio for over twenty years as of the early 1970's. Either through Salvatore Briguglio or his brother Thomas, Stephen Andretta met Armand Faugno sometime during the latter 1960's. Around 1971, notwithstanding his position as a shop steward with Local 560, Stephen Andretta had an ownership interest in West End Trucking Company, which was controlled at least in part by Armand Faugno. Further, during the period between approximately 1971 and late 1972, Stephen Andretta and Salvatore Briguglio would not infrequently visit Armand Faugno at the latter's place of business in Jersey City, New Jersey. During the early 1970's, Stephen Andretta also knew Frederick Salvatore Furino, and was friendly with Ralph Pellechia and Ralph Michael Picardo.

On February 22, 1979, Stephen Andretta was indicted in the District of New Jersey, along with Anthony Provenzano, Thomas Andretta, Gabriel Briguglio and Ralph Pelleccia, on RICO charges (specifically 18 U.S.C. § 1962(c) and (d)) stem-
ming *inter alia* from the demand for and receipt of "labor peace" payments from trucking companies which serviced Seatrain Lines between 1969 and 1977 (Seatrain Labor Peace Payoffs). On July 10, 1979, following his conviction, Stephen Andretta was sentenced to a ten-year term of imprisonment, which he is currently serving. *See United States v. Provenzano*, 620 F.2d 985, 989 (3d Cir.1980).

Gabriel Briguglio was a member and officer of Local 84 of the International Brotherhood of Teamsters until March 31, 1980. Local 84 merged with Local 560 in May of 1980.12

Gabriel Briguglio was indicted on February 22, 1979, in the District of New Jersey, along with Anthony Provenzano and others, in the Seatrain Labor Peace Payoffs case. On May 25, 1979, he was convicted of those charges, and on July 10, 1979 he was sentenced to seven years of imprisonment. *United States v. Provenzano*, 620 F.2d 985, 989 (3d Cir.1980).

As to the three individual defendants who have entered into consent judgments in this matter, Anthony Provenzano was employed by Local 560 as a Business Agent between approximately 1948 and 1958, as the President between approximately 1958 and May of 1966, and as Secretary-Treasurer between November 24, 1975 and June of 1978.

Anthony "Tony Pro" Provenzano's history is a long one. On November 15, 1960 he was indicted in the District of New Jersey on one count of Hobbs Act Extortion (18 U.S.C. § 1951) relating to the demand and receipt of what is commonly known as "labor peace" payoffs from the Dorn Transportation Company between 1952 and 1959. On July 12, 1963, having been convicted on this count, Anthony Provenzano was sentenced to a term of seven years. Between approximately May of 1966 and 1970 he was incarcerated on that sentence.

During 1962, Anthony Provenzano was indicted again in the District of New Jersey for Taft-Hartley violations (29 U.S.C. § 186) relating to the wrongful receipt of a house from Eastern Freighways Company. These charges were, however, dismissed during 1967.

In 1975, Anthony Provenzano was indicted in the Southern District of New York for conspiracy to violate the anti-kickback statute (18 U.S.C. §§ 371, 1954) relating to a proposed loan from the Utica Teamsters Benefit Fund for the renovation of the Woodstock Hotel. During July of 1978 he was convicted of these charges and sentenced to a four-year term of imprisonment.

On June 23, 1976, Provenzano was indicted in Ulster County, New York, along with Salvatore Briguglio and Harold "K.O." Konigsberg, on charges of conspiracy and murder (pursuant to New York Penal Law § 580-a and § 1044) relating to the 1961 death of Anthony Castellitto. On June 14, 1978, he was convicted on the murder count, while the conspiracy to commit murder count was dismissed. On June 21, 1978, Anthony Provenzano was sentenced to life imprisonment.

12. It should be noted that Gabriel Briguglio has as of yet not become a member of Local 560 by virtue of or following the merger of these two Locals.
Finally, on February 22, 1979, Anthony Provenzano was indicted in the District of New Jersey, along with Gabriel Briguglio, Stephen and Thomas Andretta and Ralph Pellecchia on RICO charges in the Seafarin Labor Peace Payoffs case. On May 25, 1977, he was convicted of these charges, and, on July 10, 1979, he was sentenced to a twenty-year term of imprisonment and remanded. He remains incarcerated on that conviction today. See United States v. Provenzano, 605 F.2d 85 (3d Cir.1979).

Nunzio Provenzano, the brother of Anthony and Salvatore Provenzano, was employed by Local 560 as a Business Agent between approximately 1963 and August 6, 1966, as a clerk between approximately 1969 and 1970, again as a Business Agent between approximately 1970 and January 25, 1973, as Secretary-Treasurer between approximately January 25, 1973 and November 24, 1975, and as President between approximately November 24, 1975 and July of 1981.

On December 26, 1961, Nunzio Provenzano was indicted in New York County, New York, along with Salvatore Briguglio and a third defendant, on charges of conspiracy and Attempted Grand Larceny (New York Penal Law § 580-a and 1294) flowing from a scheme to demand what might be characterized as “labor peace” payments from the Braun Company and Hubert J. Braun, Jr. during December of 1961 (Braun Payoff Demand). On January 29, 1963, he was convicted of attempted grand larceny, and, on March 5, 1963, he was sentenced to a term of two to four years. He served this sentence in New York between approximately August of 1966 and February of 1969.

On September 4, 1980, Nunzio Provenzano was indicted in the District of New Jersey, along with Irving Cotler, Salvatore Provenzano, and Michael Sciarra, for RICO violations (specifically 18 U.S.C. § 1962(c) and (d)) stemming from the wrongful demand and receipt of “labor peace” payments from four trucking companies between 1971 and 1980, a series of incidents often referred to as the “City-Man Labor Peace Payoffs.” On May 5, 1981, Nunzio Provenzano was convicted on these charges, and, on July 7, 1981, he was sentenced to a ten-year term of imprisonment. He is presently incarcerated on this conviction.

Finally, Thomas Andretta, the brother of Stephen Andretta, has been a member of Local 560 during several periods since 1955, including from approximately August 30, 1955 through November 30, 1956; from October 29, 1959 through January 15, 1960; from January 10, 1962 through November 29, 1965; and from February 27, 1978 through July of 1979.


During early 1968, while free on bail in the Middlesex County Loansharking Transaction case, Thomas Andretta was indicted in the District of New Jersey, along
with Frederick Salvatore Furino, on charges of Theft from Interstate Shipment, in violation of 18 U.S.C. § 659, relating to the theft of Skil Tools at the Canny Trucking terminal during January of 1968 (Skil Tools theft). Following his guilty plea in that case he was, on or about April 17, 1969, sentenced to a one-year term of imprisonment and remanded.

On July 22, 1971, Thomas Andretta was indicted in the District of New Jersey, along with Salvatore Briguglio, Armand Faugno and three others, on counterfeiting charges under 18 U.S.C. §§ 371, 472 and 474 (Counterfeiting case). He later pled guilty and, on July 10, 1973, was sentenced to fourteen months of imprisonment.

During the early 1970's except when he was incarcerated, Thomas Andretta, along with Ralph Picardo, was a regular and not infrequent visitor to the Local 560 offices, where he and Ralph Picardo were hosted by Salvatore Briguglio. During roughly this period—between approximately 1970 and late 1972, Thomas Andretta was apparently employed by Armand Faugno.

On February 22, 1979, Thomas Andretta was indicted in the District of New Jersey, along with Anthony Provenzano and others, in the Seatain Labor Peace Payoffs case. Following his conviction in that matter, he was sentenced on July 10, 1979 to a twenty-year term of imprisonment. United States v. Provenzano, 620 F.2d 985, 989 (3d Cir. 1980). He is currently incarcerated on this sentence.

The other individuals who figure in this matter, but who are not named as defendants, include Robert A. Luizzi, who has been a Business Agent for Local 560 since September of 1978.

* * *

Credibility Findings

Salvatore (Sam) Provenzano

During the course of his direct testimony Salvatore Sinno was asked about Salvatore Provenzano:

**Q.** Did you ever engage in any illegal activity with Salvatore Provenzano?
**A.** No.

**Q.** Did you ever talk to Salvatore Provenzano about illegal activity?
**A.** No.

**Q.** Mr. Sinno, did you ever receive any instruction from Anthony Provenzano about what you could or should talk to Salvatore Provenzano about?
**A.** Yeah, they—he never wanted Salvatore Provenzano, to get involved in anything illegal. We discussed that many a times, yes.

**Q.** Can you tell us specifically what Mr. Anthony Provenzano's instructions to you were?
**A.** He wanted to keep him more or less clean. He didn't want to get him involved in any way or other in illegal activities.
Q. Did he give you the reason that, as you put it, he wanted to keep Salvatore Provenzano clean?
A. Well, I imagine—
MR. WEISSBARD: Objection.
THE COURT: Don't imagine. Objection sustained. Answer the question.
A. Yes. He mentioned that quite often, in regard, he didn't want Salvatore Provenzano with any kind of a record or anything, but, for the Union's sake.

Sam Provenzano presently is an International Vice President of the Teamsters Union, President of Joint Council #73, and President of Local 560. He thus wields great power on a national as well as local level.

He is intelligent, affable and likeable. Had Sam Provenzano decided to shed the company he has kept for at least 25 years, there is little doubt in my mind that he would occupy a prominent place on labor's scene today.

The evidence is highly persuasive that from the late 50's on into the 70's, Anthony (Tony Pro) Provenzano ran this union with an iron hand whether in or out of prison or office. Sam and Nunzio played musical chairs in minding the store for Tony to satisfy the technical requirements of the law.

At some point in the 70's Sam came into his own. With power at his fingertips, he ran the show and still does. Did he stay "more or less" clean as Sinno had testified? He did not. Most of the time he helped to steer the ship the way Tony wanted it and made sure the same crew remained on board.

I listened in amazement to him persistently proclaim his belief in the innocence of his brothers and other members of this criminal syndicate with respect to various crimes that they had been convicted of or pled guilty to.

Was he naive, blind or deaf? No. Salvatore Provenzano, in my judgment, knows the truth and is oblivious to it.

Why? A revealing answer was provided on April 27, 1983 when he was asked on cross examination:

Q. Today, given all that has happened with Local 560 and all the indictments and this civil complaint and everything like that, if another indictment came down like the Seatrain indictment, would you, today, think it a prudent thing as the president of the union to make an inquiry to try and find out what the circumstances were with respect to the union contract and the alleged violation of the contract?
A. To answer your question, yes. If I would have done it by reading the indictment is something else. I think it is prudent. I thought I answered that before, that I started to check out what was going on.

Q. Okay.
A. I never denied that. What I am saying is I didn't bother to read the indictments. But I was interested in what took place.
Q. All right, sir. Now, I think I understand you. You were interested then—you were interested at the time of Seatrain in what was going on?
A. Yes. Because my brother was involved, and I couldn’t see how he was involved in the situation. That was my main concern.
Q. Your brother?
A. Yes, sir.
Q. As opposed to the union?
A. He comes first. I will say that. (emphasis supplied)

He still does. For Sam Provenzano inherited a legacy of corruption which has been preserved by him to this very day. In speaking of Tony in partial response to my question he said: “He would never do anything to hurt this membership.”

The record is otherwise.

Josephine Provenzano

Miss Provenzano, daughter of Anthony Provenzano, has been the Secretary-Treasurer of Local 560 since 1978 when she was elected to that office at the age of 23 to succeed her father who had been convicted of murder. She presently earns $64,000 per year plus perks.

She has an engaging personality and has no illusions as to why she was appointed. She said:

A. . . . what motivated them to do that, I have to say it is because—not only that I was a Provenzano, that counts for weight, but I was Tony’s daughter. See, there is only one Tony to them. Now, there was a big issue in this case as to what members believe, what they read in papers or don’t they believe, were they influenced by it? I have to tell you the truth. I don’t think they would have cared if it was true or not true. Because they know what he did for them. To them, in their minds, what did the press ever do for me? What did the government ever do for me? They take my taxes and they go on about a whole platform of things they disagree with the government. Look what Tony did for me. He gave me pensions, eyeglasses, he gave me dental. I have welfare payments. He saw me on the street and took me in the bar. We had a drink. He remembered my wife’s name. He asked me how my daughter was, that had the concussion in the hospital. There is something about my father, sir,—not that you can’t get mad at him. You can get mad at him. There is something about the man. I mean you can’t understand until you’re like one of the guys from 560. They just—I would have never believed it, if I wasn’t in those meetings and I didn’t hear those people go wild about him. I mean they liked him, but it is just incredible to me. It is just absolutely incredible to me. And to them, I am Tony’s daughter. . . .

There can be, to the members of Local 560, no higher recommendation in
this entire world. And if I don't believe that, well, I wouldn't be here right now because I wouldn't be a member of the executive board of Local 560.

It is—I don't know how to put it into words. It is more like an emotion you feel. He has an uncanny ability of making people relax, and making them know he cares. He is not a big deal. He is not very well-educated, book-wise. He might have gone to the fourth or fifth grade. But you give him a contract, he can read it. I don't know how he can read it. He just can. You put him in a room with 500 truck drivers. Nobody in this world is going to talk to them that they will understand more than my father. You put him in a room with ladies, and you never see him. My girlfriends—when my father—there is articles in the papers or—they cry. They call me on the phone in tears. 'How could they say that about your father?'

I tell them, 'Hey, listen, everyone is entitled to their opinion. You know better. Don't cry. Don't get upset. Don't read it. That's all.'

He just commands such love and respect, and admiration and loyalty, not only from his family, but from the members of Local 560. Anyone that comes into contact with him. I don't know what else to say, your Honor. I mean. I don't even know if I expressed myself properly or adequately, but that is just how I feel. I am so proud to be my father's daughter. [Emphasis supplied].

Whatever experience Miss Provenzano lacks, she makes up in candor. Her understandable love for her father transcends everything else.

**Stanley Jaronko**

As pointed out previously, Mr. Jaronko has been a member of the Local since 1949 and a business agent since 1977. He was a shop steward for 17 years. He is a trustee of the union and a union representative to the Trucking Employees of North Jersey Fund (TENJ).

He was asked:

Q. Have you, to the best of your knowledge, ever done anything that a member might think was designed to intimidate him from coming to meetings or speaking out his mind?

A. Nope, never did it. Never will.

He was asked:

Q. Mr. Jaronko, if Nunzio Provenzano was able to come back to the union tomorrow, you as one member of the Executive Board would vote him on in a minute, I take it, right?

A. Yeah. I believe there is a law that he cannot come back. But after he does what is he supposed to do? Yes, I would.

Q. And if that law didn't exist and he could come back tomorrow, you would take him back tomorrow, right?
A. Yes. And I believe the members will, too.
Q. And you would do the same thing with Anthony Provenzano, assuming he could come back tomorrow, you would take him back tomorrow?
A. Yes.

With respect to the Maislin Terminal incident involving Local 560 member August Muller, described infra, I find Mr. Jaronko's testimony unconvincing and his version of the story unbelievable.

A careful review of Mr. Jaronko's testimony reveals that, with one exception, he steadfastly refused to accept a verdict of guilty involving the Provenzanos. His rationale—they were convicted on the testimony of an informer.

Overall, I found Mr. Jaronko to be fiercely loyal to the Provenzanos, completely indifferent to the history of criminal activity on the part of various individuals, including Anthony and Nunzio Provenzano. Mr. Jaronko's fealty to the present regime is steadfast beyond question. His testimony left much to be desired.

* * *

Joseph Sheridan

Shop Steward since 1965, Business Agent since 1972, Trustee since 1978, and Vice President of 560 since 1981, Mr. Sheridan presented a picture of an individual whose family had taken an active role in the union in the pre-Provenzano period and who had inherited the mantle. The other business agents, Mr. Sheridan appeared to me to feel very comfortable with his earnings of $995 per week. He is not a boat rocker. When asked about Nunzio Provenzano he said:

A. Sir, if you know Mr. Provenzano, Nunzio Provenzano like I know him, and I know him quite a few years, I don't believe those allegations.

I know him to be an excellent labor leader for his people, a good family man and a man I would be very proud to recognize in the morning. I don't believe them.

Q. And if he were eligible to serve tomorrow, you, as trustee and vice-president of the Local, would bring him back tomorrow?
A. I would be happy to.

When asked about Anthony Provenzano he said:

A. Sir, let me go back. I only served a couple of years with Mr. Anthony Provenzano. I believe he came back in '75 to '78. When I was on in '72, he wasn't there. So my experience with Anthony Provenzano is only as a member of Local 560 for that period of time.

I know the men idolized him and I can see why they idolized him. He was a man, he come off the trucks the hard way. I don't think that is something. I think I said in my testimony, I said the man has charisma that I wish I had. I don't have
it. He is the type of man that can walk in a room with 5,000 hard hats could be in there, and he is well-respected no matter where he goes, because I don’t think there is a man in our union, or in the labor movement, that can say anything against him, about this man.

He is a fighter. He fights hard. And I will give you an example like I respect him for. I think he just was incarcerated and he come out for a short time. I think it was a two-week period.

Q. Which incarceration?
A. I think, I don’t know if it is on the murder one or on the Seatrain. He was out for about—a couple of weeks. And with all that was on that man’s mind, the only conversation I had with Mr. Provenzano was hello, how are you, and nothing other than that.

I am telling this Court today, your Honor, just the way I feel about this man. I am choked up about it, that is the type of guy he was. He would come down to my desk. He says ‘Joey, how are you? I am sorry to hear your wife has cancer.’ He says, ‘Anything I can do to help you, let me know.’ I said, ‘I appreciate it, Mr. Provenzano.’ He says, ‘Hang in there and do the best you can.’

That’s the type of guy he is, with all that is on his mind, somebody else might not even think of it, but he thought, just a little something like that, that little charisma like that man has. Tomorrow morning, if you let him out of jail he would win the election overwhelmingly, with all the supervision you want to put up, he would walk away with the election.

THE COURT: If you felt he murdered Castellitto, would you still feel the same way?
THE WITNESS: No, I wouldn’t.

THE COURT: Why?
THE WITNESS: If anyone takes anybody’s life, I wouldn’t even care if it was an animal, I certainly wouldn’t respect him or want any part of him or have anything to do with him.

THE COURT: If you felt that he extorted Dorn’s, how would you feel about it?
THE WITNESS: I certainly wouldn’t respect him or admire him.

THE COURT: Would you vote for him?
THE WITNESS: Excuse me?

THE COURT: Would you vote for him?
THE WITNESS: I would have to weigh that one, sir, because if he was convicted in my conscience, he did something wrong like that, no, I don’t think I would.

THE COURT: What about Nunzio’s conviction in 1981, if you felt he was truly guilty?
THE WITNESS: If I thought Mr. Nunzio Provenzano was truly guilty of the crime, I know I wouldn’t.

THE COURT: You know what?
THE WITNESS: I would not vote for him.

THE COURT: All right.

Let me ask you this. Mr. Dildine testified in this courtroom that he felt the
government has pursued a vendetta. I think that was the word he used originally, and then I picked up on it, against Local 560.

THE WITNESS: Yes.

THE COURT: You were in the Courtroom for that?

THE WITNESS: Yes.

THE COURT: Okay. What does the government have to do, in your mind, I am talking about Joseph Sheridan's mind, if I may use the shopworn phrase, to put the ball across the line, to convince you that these individuals who Mr. Laufer has been talking about the last few minutes, were guilty of crimes. What—in other words—let me back up a moment.

Like all of us, I am sure you read the newspapers, right?

THE COURT: Every day we pick up the paper, we read Joe Smith convicted of murder or robbery in some hamlet in the United States; right?

THE WITNESS: Yes, your Honor.

THE COURT: Okay. You read that article, you don't know Joe Smith, I am assuming that. What reaction do you have, as a normal human being?

THE WITNESS: As reading that in the article, I certainly wouldn't think much of the individual who caused that crime.

THE COURT: Do you think the man has had a trial by a jury?

THE WITNESS: Yes.

THE COURT: The jury has deliberated and found him guilty beyond a reasonable doubt.

THE WITNESS: Yes, sir.

THE COURT: Would it be fair to conclude that, on the basis of what you read, the man is guilty? He has been found guilty; right?

THE WITNESS: Yes, sir.

THE COURT: All right. Now, all these cases that we have been talking about, with one exception, I think, I mentioned to Mr. Dildine the plea of guilty by Mr. Sal Briguglio, the counterfeiting case, there were verdicts handed down. Why, in your mind, Joseph Sheridan's mind, do you have a different reaction?

THE WITNESS: Sir, I guess, like you say, if you read something in the paper and you don't know somebody, you are fast to judge an opinion, which we all do. I do it, myself.

THE COURT: Right.

THE WITNESS: But I got to tell it to you the way I know it, is that I didn't really know the Provenzanos. I just knew of them being our leaders in the union and I personally, as Joe Sheridan, never really got to know them until I became part of an organization. I can speak for my family, my wife, and I am not just saying that in here, I consider myself a very devout man, a religious man, and I bring my family up this way. I have been in their company on not many occasions. They are respected people in their community. They have lovely children. They brought them up to respect their parents, and I don't see this aura of, you know,
what we are talking about, because I am there almost—I am there 11 years, and I
can say that, as God is my judge, all I know these people to be is, no one ever, in
the 11 years I am up there, said to me, Joe Sheridan, this is the contract.

Your Honor, I believe you asked me the question yesterday, when you said,
can you, as Joe Sheridan, make a decision without picking the phone up? I can
tell you companies where—and this is not done in all unions, where if I go out to
negotiate a contract and if I know I got the best that I can, I don’t have to go to
that phone, sir, and I never have.

I will just say, that’s the contract. If the people ratify it, I will come in the next
day and I will tell whoever the president is at the time, sir, this is our contract. I
got this and I got that. That is how I know these people, sir.
THE COURT: I understand that. But as a devout individual, and that is the way you
have described yourself.
THE WITNESS: Yes, sir.
THE COURT: Haven’t you ever questioned, that is my—haven’t you ever questioned
in your own mind, I mean aside from the fact that you are on the payroll, and I
am being real up front with you—

* * *

THE WITNESS: I am sitting in the courtroom when Mr. Sinnno was here, and we are
going through testimony, and they are talking about the Mafia, and the ‘hit men,’
and all these here people, your Honor, like I said, unless I am the most naive person
in the world, I am up there 11 years, I never met that type of individual, I never
come in contact with them, and I don’t know these people to be anything but good
labor leaders, and responsible family men. I will go to my grave saying that.

They are good fighting people for the people they represent. Sure, the things
that went on in the past, you can say quarterbacking on a Monday morning,
maybe this or that should have been done, but they try, even to the membership,
Sam said to me, he says, we have the contract for the Meadowlands, he said
Joey, do you think you can get the Brendan Byrne Arena, he says, I got to try
something and see if we can’t get this membership out.

* * *

THE WITNESS: Your Honor, you know the hardest thing I think you have to fight,
being a member of our Local, you can be invited out for a party, has nothing to
do with unions or any union officials there, and it has happened to me quite a lot.
You know, it is that type of stuff where, I think the papers have done a job, and it
is a household word, as far as, you know, I think everyone thinks that this is a
racketeer local, and it is a dominated local.

Joseph Sheridan: decent, devout, blind and bought.
II.

[1, 2] Continuously between approximately the late 1940's and the present, Anthony Provenzano has been the leader of a group of individuals who have been associated together in fact as an enterprise within the meaning of 18 U.S.C. § 1961(4), the activities of which have affected interstate commerce. This group of individuals, the "Provenzano Group," has included (in addition to Anthony Provenzano), Nunzio Provenzano, Stephen Andretta, Thomas Andretta, Gabriel Briguglio, Andrew Reynolds, Salvatore Briguglio (until his murder in 1968), Salvatore Sinno (until his defection in 1961), Harold "K.O." Konigsberg (until his incarceration in the mid-1960's), Armand Faugno (until his "disappearance" in 1972), Ralph Michael Picardo (until his defection in 1975), Ralph Pellecchia (until his imprisonment), and Frederick Salvatore Furino (until his murder in 1982). The evidence adduced at trial clearly demonstrates that these individuals conspired to and actually did conduct the affairs of the Provenzano Group Enterprise through a pattern of racketeering activity, in violation of 18 U.S.C. § 1962(c) and (d), involving murder and labor racketeering offenses on a protracted and continuing basis so as to enrich themselves and perpetuate the existence of their criminal association. The evidence further demonstrates that the Provenzano Group has maintained an ongoing organizational structure in the form of a hierarchy and protocol, which has controlled the affairs and conduct of the Provenzano Group's associates during approximately the past thirty-five years. Finally, it has also been conclusively demonstrated that the Provenzano Group has had an existence separate and apart from simply the pattern of activity in which it has engaged.

A.

Sometime during the late 1940's, Anthony Provenzano invited Salvatore Sinno to become associated with him and others in a criminal organization, the Provenzano Group herein. Sinno accepted this invitation. From this association, Sinno learned that the Provenzano Group operated as an organized racketeering enterprise, and, through its leader, was a faction of a larger New York-based criminal organization. This larger organization was at that time headed by Mike Miranda, who was serving as "acting boss" while its former head Vito Genovese was imprisoned. Prior thereto the organization was led by an individual whom Sinno identified as "Lucky" Luciano.

The larger criminal organization of which the Provenzano Group was a faction had a settled hierarchy. The positions which constituted this hierarchy were "boss," "underboss," "captains," and "soldiers," which were also known as "made members" or "button men." Anthony Provenzano was a part of this hierarchy and held the position of "made member" within the larger organization. Others who held such positions during Sinno's period of association with the Provenzano Group included Toby D'Amico, Mike Sabella, Earl Collucio, Tony Salerno, Peter LaPlaca, Bobby Manna, Gyp DeCarlo, Nick Perry, Pete DiFeo and Jerry Catena (the latter four of whom were "captains").
The associates or members of this larger criminal organization were then permitted by its protocol to engage in a variety of criminal activities, such as gambling, extortion, trafficking in stolen property and the corruption of law enforcement authorities to ignore criminal violations, but were prohibited from involvement in narcotics, prostitution and counterfeiting. Pursuant to the directions of Anthony Provenzano, and apparently in accordance with the larger organization’s protocol, Sinno and others participated in the commission of a number of criminal offenses indicative of the relationship between the larger criminal organization and the Provenzano Group. One such criminal offense was the operation by Sinno and others of an illegal monte card game in New York City over a period of several years, from which the larger organization received a “tribute” payment of three percent for having allowed the game to operate. An illegal monte card game was also operated in Hoboken over a period of time which involved the payment of money to law enforcement authorities for “protection.” Jersey City was the situs for the operation of an illegal dice game over a several year period prior to 1961, another criminal offense. Anthony Provenzano provided Sinno with $5,000 in operating capital for the Jersey City game in exchange for a ten percent share in the profits.15

In September of 1961, Salvatore Sinno disassociated himself from the Provenzano Group. At that time, Nunzio Provenzano was an associate of the Provenzano Group and, like Sinno, had been proposed for full membership in the larger criminal organization. Nunzio Provenzano’s involvement in both organizations is highlighted by his presence at the “drop” where, by prearrangement, Sinno “gave up” his truck to be “hijacked.”

Following the period described by Salvatore Sinno, the Provenzano Group continued to exist as a racketeering enterprise, notwithstanding the incarceration of Anthony Provenzano between approximately the mid-1960’s and 1970 and the incarceration of Nunzio Provenzano (as well as Salvatore Briguglio) between approximately 1966 and 1969. First, I find that between approximately 1969 and 1977, Anthony Provenzano, Gabriel Briguglio, Stephen Andretta and Thomas Andretta unlawfully conspired to and did conduct the affairs of an enterprise (the Provenzano Group) through a pattern of racketeering activity, consisting of multiple violations of the Taft-Hartley Act, 29 U.S.C. § 186, and involving both Local 560 and several carriers for Seatrain Lines. Further, between approximately 1971 and 1980, Nunzio Provenzano and others conspired to and did conduct the affairs of an enterprise through a pattern of racketeering activity, again consisting of multiple violations of the Taft-Hartley Act, and involving four interstate carriers.

* * *

15. Anthony Provenzano also caused an employer to place Salvatore Sinno’s name on its payroll so that Sinno’s tax records would reflect a legitimate source for his income from the various gambling activities seemingly undertaken at Anthony Provenzano’s behest. This provides another example of an act consistent with and reinforcing of the organizational structure of the enterprise and which promoted both organizational and individual well-being.
B.

During the past thirty years, Anthony Provenzano and other members of the Provenzano Group have engaged in a pattern of criminal and other improper acts, the object of which was to gain control over and to exploit the Local 560 Enterprise.

First, between approximately January 1, 1952 and June 1, 1959, within the District of New Jersey and elsewhere, Anthony Provenzano, while an official of Local 560, extorted “labor peace” payoffs from Walter Dorn and his company, Dorn Transport, Inc. of Rensselaer, New York. During this period, Anthony Provenzano held the positions of Business Agent, and later, of President, and obtained a total of $17,100 from Dorn.18

Next, at the time of his nomination and appointment as a Business Agent for Local 560, Anthony Provenzano directed Salvatore Sinno and Earl Coluccio to attend the membership meeting in question in order to intimidate and if necessary discipline any “rambunctious people”—meaning those members who might presume to voice opposition to his appointment. Similar tactics were employed by the Group in preparation for Local 560’s January 10, 1960 election, which was hotly contested. As one such step, Anthony Provenzano directed Nunzio Provenzano, Thomas Reynolds and Robert Luizzi to “sign up” ineligible members in order to increase the Group’s voting strength. Salvatore Sinno, at Anthony Provenzano’s behest, persuaded some six of his friends to vote for the Provenzano slate in that election, although each of them was, in fact, ineligible to so vote. Salvatore Sinno himself was able to (and did) vote in the 1960 election because Anthony Provenzano had brought Sinno’s membership “book” up to date by falsifying entries to show that Sinno was a member of Local 560 in good standing.

Third, in order to enhance his own power and that of the Provenzano Group within Local 560, and apparently to punish what he regarded as a breach of the Group’s protocol, Anthony Provenzano recruited Harold “K.O.” Konigsberg and Salvatore Briguglio to kill Anthony Castellitto—which they, together with Salvatore Sinno and others, did on June 6, 1961. Prior to his “disappearance,” Anthony Castellitto was one of the most popular members of Local 560. He had been, for example, the only candidate to run unopposed in Local 560’s 1960 election. Anthony Provenzano considered Anthony Castellitto to be a serious threat to his control over Local 560 and felt that Anthony Castellitto might be assisting the opposition party within Local 560.

To carry out Anthony Provenzano’s directive, Harold “K.O.” Konigsberg enlisted Salvatore Sinno and others sometime shortly before June 6, 1961 to assist him with the planned murder. On June 6, 1961, in Ulster County, New York, Konigsberg, Sinno, Salvatore Briguglio and others killed Anthony Castellitto by striking him on the head with a blunt object and strangling him about the neck with a cord.

18. This pattern was to some extent repeated when, between November 30 and December 12, 1961, Salvatore Briguglio and Nunzio Provenzano attempted to extort labor peace payments (attempted grand larceny) in the Braun Payoff Demand case, discussed infra.
Thereafter, Anthony Provenzano rewarded Konigsberg for his part in the Castellitto murder by paying him the sum of $15,000. Anthony Provenzano rewarded Salvatore Briguglio for his part in the Castellitto murder by making him a Business Agent in Local 560.

On or about December 20, 1962, approximately one month after Anthony Provenzano had been indicted in the Eastern Freighways case, the membership of Local 560 voted, upon the motion of Michael Sciarra, to increase the salary of its President, Anthony Provenzano, from approximately $20,800 to approximately $45,800 annually. Sciarra testified that his motivation in making the motion was the common knowledge within the Local that Anthony Provenzano faced substantial legal expenses in connection with his defense on the Dorn charges. His salary was again increased on February 14, 1963, and upon the motion of Stephen Andretta, from approximately $45,800 to approximately $95,800 annually. Andretta testified, in turn, that he was prompted to make the motion because of the feeling that Anthony Provenzano should make as much money as Jimmy Hoffa, who was at the time President of the International Union. Hoffa disappeared on July 30, 1975.

On or about March 13, 1963, Anthony Provenzano announced to the attendees of a membership meeting of Local 560 that he was not taking these two salary increases and would not do anything to impoverish the Local. This was again confirmed at the October 13, 1963 membership meeting, when Anthony Provenzano told those attending that, “as of today, I have not taken either of the salary increases granted me.” On or about July 21, 1966, the membership of Local 560 voted, upon the motion of Michael Sciarra, as seconded by Stephen Andretta, to reduce the salary for the office of the President from $95,000 to $20,800, to be effective with the appointment of Salvatore Provenzano as President on May 6, 1966.

On or about January 30, 1969, Anthony Provenzano (then in prison) caused his attorney, Joseph F. Walsh, to mail a letter to Local 560 requesting that it issue a check to Anthony Provenzano in the amount of $25,000 (less appropriate deductions) “on account of back salary due and owing to him.” This letter was subsequently received by the Local 560 Executive Board. As a result of this request, the Local 560 Executive Board paid to Anthony Provenzano the sum of $25,000 annually each year between 1969 and 1976. These payments together represented all but approximately $48,785 of the amount accumulated through his salary increases. During the period encompassed by these payments, Anthony Provenzano did not hold office in Local 560, being in fact disqualified until November of 1975 from holding any union office.

Local 560 received no benefit in exchange for the payment of these funds to Anthony Provenzano. Contrary to his representation to the membership on March 13, 1963, the payments (totalling $223,785) did in fact "impoverish" the Local. His ability to exact these payments from Local 560 provides further evidence of the strength and dominance of the Provenzano Group and its exploitation of Local 560 for its own purposes.

Next, on May 24, 1963, in Hudson County, New Jersey, Walter Glockner was murdered. Prior to his death, Glockner had been a vocal critic and opponent of the
Provenzano brothers. In particular, on the evening before his death, during the course of a Local 560 meeting chaired by Salvatore Provenzano, Glockner had voiced opposition to the appointment of J. W. Dildine as a Business Agent. After the meeting, Glockner attempted to approach Salvatore Provenzano in order to further vent his feelings on the matter. As he did so, he became embroiled in a heated exchange and shoving match with Thomas Reynolds. Ralph Pellechia, Local 560's Sergeant-at-Arms at the time, restrained Glockner and forcibly evicted him from the premises. The following morning, Glockner was shot to death in front of his residence in Hoboken.

* * *

During the mid-1960's, Anthony Provenzano consolidated his power and control over Local 560. Shortly after his election victory in 1965, he, Nunzio Provenzano and Salvatore Briguglio commenced serving prison terms resulting from their respective convictions in the Dorn Extortion and Braun Payoff Demand cases. Nevertheless, the Provenzano Group remained strong, and new associates came to prominence. The new associates—Stephen Andretta, Thomas Andretta, Armand Faugno, Ralph Michael Picardo and Frederick Salvatore Furino—were “tied in” to the Group principally through Salvatore Briguglio. Andrew Reynolds was also later brought in through Nunzio Provenzano. Certain of these new associates joined forces with the other members of the Provenzano Group in continuing to further acquire, maintain and exploit control over Local 560.


Between approximately early 1974 and late 1977, Anthony Provenzano, aided and abetted by the other associates of the Provenzano Group (and in particular by Salvatore Briguglio and Stephen Andretta), did receive and agree to receive certain fees, kickbacks, gifts and things of value because of and with intent to be influenced with respect to his actions and decisions relating to certain questions and matters concerning the Local 560 Benefit Plan (the Trucking Employees of Passaic and Bergen Counties Welfare and Pension Fund), in violation of Sections 1954 and 2 of Title 18 of the United States Code.

* * *

Further, I find that the circumstantial evidence is strong and convincing that Anthony Provenzano, aided and abetted by Salvatore Briguglio and Stephen Andretta (whose involvement is clear despite the government's specific failure to include him as to this incident in the complaint) engineered the entire Romano loan/kickback deal for their gain and at the membership's expense. Salvatore Provenzano testified that
he remonstrated with his brother when he (Salvatore) learned of the first property sale. While his instincts were correct, his fervor to protect the union membership was subordinated to his brother’s will. His brother came first.

Next, continuously between approximately January of 1971 and July of 1980, Nunzio Provenzano, Irving Cotler and others, unlawfully received and accepted and agreed to receive and accept certain payments, loans and deliveries of money and other things of value from certain employers—namely, Pacific Intermountain Express Company (between approximately January of 1971 and July of 1980), Mason and Dixon Lines, Inc. (between approximately November of 1976 and June of 1979), T.I.M.E.-DC, Inc. (between approximately November of 1975 and April of 1979) and Helms Express (between approximately January of 1977 and April of 1979), the employees of which companies were employed in an industry affecting commerce. Specifically, it was found that (a) Nunzio Provenzano and others were officers and employees of Local 560; (b) Local 560 did represent and would admit to membership certain employees of the said employer companies, and (c) the said payments, loans and deliveries were made with the intent on the part of the said employer companies to secure “labor peace” from Local 560 by influencing the officers and employees of Local 560 with respect to their official actions and duties—all of which violated 29 U.S.C. § 186(b) and 18 U.S.C. § 2.

The power of the Provenzano Group and its ability to exploit Local 560 for its own purposes was again apparent in 1979. On or about November 9th of that year, the membership of Local 560 voted to award Anthony Provenzano an annual “pension” which would equal one-half of his salary at the time of his retirement. This step had been necessitated, in the view of the Group, by the fact that a break in service (resulting from his imprisonment between 1966 and 1970 in the Dorn case) had disqualified him from receiving a pension from the Teamsters.

Thereafter, on June 21, 1978, Anthony Provenzano was sentenced to life imprisonment for the murder of Anthony Castellitto. As a result, he was forced to “retire” from Local 560. On November 21, 1978, Nunzio Provenzano told the attendees at a Local 560 membership meeting that the Executive Board had acted on the membership’s vote to grant Anthony Provenzano a pension, and he thanked the membership for having supported the motion. Pursuant to this action, Anthony Provenzano received the following amounts as his “pension” from Local 560: 1979—$27,612; 1980—$27,612; 1981—$28,143.

In his testimony, Salvatore Provenzano stated that he had “no idea” how Local 560 would benefit from the payment of this one-half pension. Trustee Michael Sciarra also knows of no benefit to Local 560 which flows from these payments other than to keep “the members happy—they voted for it.” The ability of the Provenzano Group to exact these payments is clearly demonstrative of its strength, influence and continuing ability to control and exploit Local 560 for its own purposes—at the expense of the membership. The audacity of these payments in the face of Anthony Provenzano’s conviction (and sentence of life imprisonment) for murder is remarkable.

As part of the effort to gain control over and exploit Local 560, continuously
throughout the period between June of 1961 and the present, Anthony Provenzano and other associates of the Provenzano Group—aided and abetted by various past and present members of the Local 560 Executive Board—systematically used extortion in order to induce a significant portion or segment of Local 560's membership to surrender certain property. Specifically, this extortion took the form of the wrongful use of actual and threatened force, violence and fear of physical and economic harm, particularly the loss of the ability to earn a livelihood, and it was used to induce or coerce the membership into surrendering their federally protected rights to participate in the affairs of Local 560 in a democratic manner. This extortion affected interstate commerce and the movement of articles and commodities in such commerce.

The extortion of these intangible property rights occurred through a series of actions committed by the Provenzano Group. The first of these was the "disappearance" of Anthony Castellitto in 1961.

The extortionate effect of the Castellitto "disappearance" was further amplified or highlighted by the ambush slaying of Walter Glockner in 1963. Again the pattern was repeated: As previously noted, Glockner had, on the night before his murder, spoken out at a Local 560 membership meeting in opposition to a Provenzano Group proposal—even more critically, a proposal to move a Provenzano Group associate into the position of Business Agent. Almost immediately after the murder took place, Thomas Reynolds, Sr. was arrested and held for a number of weeks as a "material witness." This prompted widespread speculation among the membership that Glockner's murder had been the direct result of, and was in retaliation for, his outspoken criticism at the meeting.

One can have a grave suspicion that Glockner's death was caused by the Provenzano Group. As I have previously found, however, the record will not support a finding to that effect, even by a preponderance of the evidence. But it is clear from a review of the entire record that Glockner's violent demise has been used by the Provenzano Group either directly or subtly as a mechanism of intimidation. For example, it is apparent from the testimony of August Muller that two decades later the members of the Local still have a perception that the Group annihilated Glockner. Even if they did not, this perception has been exploited by the defendants as a means of instilling fear and stifling opposition.

The degree to which perceptions linger that the Glockner murder was an act of retaliation by the Provenzano Group and the dramatic effect that such a perception can have at the present time is illustrated by the August Muller incident, which developed during the course of the trial in this matter.

* * *

The perception which initially flowed from the Castellitto "disappearance" and the Glockner murder gradually developed into a pervasive climate of intimidation within Local 560. An important factor in the process of generating and maintaining this climate of intimidation has been the systematic appointment and reappointment
of associates of the Provenzano Group, particularly of those associates who had serious and extended criminal records or whose propensity for violence or criminal activity was otherwise known to those who were principally responsible for the particular appointment as well as the membership.

* * *

This pattern of appointments and reappointments following convictions and incarceration, as well as the related pattern of criminal offenses committed while in office, is, according to testimony I deem credible, unique to Local 560 and unparalleled in the history of United States labor organizations. I find it to be a shameful horror story, the effect of which has been the extortion of the membership's LMRDA-created property rights to union democracy, and the creation, as a result, of a Provenzano Group "fiefdom" within Local 560.

Another factor in the process of generating and maintaining the climate of intimidation within the membership of Local 560 has been the conspicuous and studied indifference of the Provenzano Group, and particularly of its associates who held officer positions in Local 560, to the frequent presence of known or reputed criminals and "undesirables" around the Local's offices. The fact of this presence tended to foster a perception among the membership that the incumbent officers and the Provenzano Group had available to them the support and resources of persons who were not adverse to the use of criminal methods in attaining their desired results. These visitors included:

(a) Thomas Andretta, the brother of Business Agent Stephen Andretta, who had been convicted of the use of extortionate means in the collection of debt in Middlesex County in 1967 (indicted together with Armand Faugno), the theft of Skil Tools from the Canny terminal during 1968 (convicted together with Frederic Salvatore Furino), and counterfeiting during 1971 (convicted along with Salvatore Briguglio, Armand Faugno and three others). In addition, Thomas Andretta had been convicted in or around 1960 for theft from Interstate Shipment. Notwithstanding these convictions, Thomas Andretta was a frequent visitor at the office of Local 560 during the late 1960's and early 1970's.

(b) Armand Faugno had been convicted in 1967 with Thomas Andretta in the Middlesex County Loansharking Transaction and with various other in the 1971 Counterfeiting case. In spite of this record, Faugno sometimes visited the offices of Local 560 before his disappearance in December of 1972. While there is no evidence introduced at trial that Faugno was known to any rank and file member of Local 560 who might have been visiting the office at the same time, word of his relationships with Provenzano Group associates most certainly spread among certain segments of the membership following his disappearance while under indictment together with Thomas Andretta and Salvatore Briguglio.

* * *
The pervasiveness of the climate of intimidation within Local 560 and the intensity of its impact upon the membership's ability or willingness to exercise their “union democracy” rights under the LMRDA are evinced by the complete absence of publicly voiced opposition to, disagreement with or critical discussion of the (non-contract related) policies, proposals, decisions and actions of the Provenzano Group incumbents. According to the testimony of Professor Clyde Summers, which testimony I credit, the true test of union democracy is whether the members feel free to openly criticize the policies and practices of the incumbents, and not merely whether there are any opposition candidates. There have been a large number of occasions in the recent history of Local 560 during which an objective observer might have expected to hear such criticism or discussion at membership meetings. For example, the murder of Walter Glockner on the morning after his public display of opposition at a union meeting, and the subsequent arrest and detention (for several weeks) of Thomas Reynolds as a material witness in the murder, should have been “fodder” for the opposition in 1963 and should still be “fodder” today, particularly in light of the Local’s history. The evidence suggests that the question of Glockner’s murder has never been raised at a membership meeting, at least not since 1965.

Further, Professor Summers also testified that the conviction of an official on a union-related offense will normally trigger criticism or even encourage the opposition to come forth and make a challenge. The failure of an Executive Board to take any remedial action when a responsible official is indicted or convicted can only add fuel to such a situation. Professor Summers noted that it would matter little that such an offense related to a union other than the one in which the defendant was an official (such as was true in the Braun Payoff Demand case). To have appointed persons who are prepared to raid a union is “to bring foxes into the henhouse.” Consequently, anyone who is appointed by a person who was himself sent to jail for selling labor peace should normally be a target of criticism. There has, of course, been no such criticism within Local 560 since the emergence of the Provenzano Group.

* * *

III.

In order to prevent future racketeering violations by the Provenzano Group and its aiders and abettors, it is necessary to enjoin Stephen Andretta and Gabriel Briguglio from any future dealings with Local 560 and to remove the current Executive Board members from their positions, appointing in their place one or more trustees to administer the Local during a curative period of appropriate length. Following this period, the trustees would conduct a carefully supervised election to restore union democracy within Local 560.

Stephen Andretta and Gabriel Briguglio, while holding positions of trust within their respective labor organizations, committed serious and protracted labor racketeering violations as associates of the Provenzano Group. If given the opportunity,
they are likely to do so again. Stephen Andretta was given an opportunity at trial to make expiation for his conduct, particularly including that involved in the Seatrain Case. Instead, his testimony, which, at best, lacked candor and strained credibility, demonstrated no hint of atonement. Gabriel Briguglio presented no evidence in his defense, and his silence under the circumstances supports an inference that his own evidence would be unfavorable to his cause.

The current Executive Board members must be removed as a predicate to the restoration of union democracy within Local 560 and to ameliorate and remedy the conditions which have enabled the associates of the Provenzano Group to dominate and exploit the Local for the past thirty years. The evidence clearly points to the fact that the members view the leadership of the Local as a single, monolithic control organization. So long as it, or any portion of it, remains in actual control of Local 560, Professor Summers' testimony indicates that it will be very difficult to remove the sense of fear which the members now experience. This sense of fear within the Local—causing members to believe that it is not safe to protest or organize—is so overwhelming that it is not likely to correct itself in the foreseeable future.

Removal of each Executive Board member is also necessary because each one is either unwilling or unable to evaluate objectively the criminal conduct of fellow officers or business agents, or to institute prophylactic measures to ensure as much as possible that past criminal conduct will not be repeated. Moreover, the pervasive attitude of arrogance and insolence in the face of these circumstances continues to impress upon the membership that the Local's leadership at the very least condones criminal conduct. This, too, serves to perpetuate the atmosphere of intimidation and to suppress any dissent.

* * *

Continuously throughout approximately the last quarter of a century, the associates of the Provenzano Group have dominated Local 560 through fear and intimidation, extorting the membership's union democracy rights, and have exploited it through fraud and corruption. Because the conditions within Local 560 which have been the *sine qua non* for the reported commission of acts of these defendants remain, I must conclude that future [RICO] violations are likely to occur, thereby resulting in irreparable harm to the membership of Local 560, its contract employers, and the public. In order to prevent and restrain such future violations of § 1962, it is necessary to enjoin defendants Stephen Andretta and Gabriel Briguglio from any future contacts with Local 560, and to remove the current members of the Local 560 Executive Board in favor of the imposition of a trusteeship for an appropriate period of time, which will terminate following the completion of supervised elections.

I have additionally determined to exculpate the institutional defendants herein, specifically Local 560 itself and its Funds and Plan. In order to attribute the misconduct of the individual defendants to these institutional defendants, I must find (1) that the individual defendants committed the acts of racketeering in the scope of their
employment, and (2) that they thereby intended to advance the affairs of the institutional defendants.

While it is clear that the individual defendants acted within the scope of their employment in committing the various criminal acts previously recited, it is equally obvious that their intent was not to advance the affairs of their employers. To the contrary, the institutional defendants in this action were the victims. The associates of the Provenzano Group, aided and abetted by the other defendants herein, intended by their actions to control and exploit Local 560 to its detriment. I therefore conclude that there is no basis for retaining either Local 560, the Funds or the Plan as a defendant in this action, except insofar as it is necessary to retain Local 560 as a nominal defendant to effectuate the equitable relief heretofore specified and as may be ordered in the future.

VI.

In sum, I have determined that the individual defendants herein have violated 18 U.S.C. § 1962(b), (c) and (d). Because of the likelihood of continued violations, I have determined to enjoin defendants Stephen Andretta and Gabriel Briguglio from any future contacts of any kind with Local 560, and to remove the current members of the Local 560 Executive Board in favor of a trusteeship. This trusteeship shall continue for such time as is necessary to foster the conditions under which reasonably free supervised elections can be held, presumptively for eighteen months. I have, however, decided to stay the effect of this injunctive relief pending appeal, and have also decided to defer the naming of the trustee(s) until the completion of any such appellate proceedings. Finally, I have decided to dismiss Local 560, the Funds and the Plan from this action, except insofar as I must maintain jurisdiction over Local 560 as a nominal defendant in order to effectuate the equitable relief heretofore specified or as may be ordered in the future.

Plaintiff shall submit an order in conformance with this opinion within seven (7) days.
In this proceeding the government seeks a permanent injunction against Michael Sciarra prohibiting him from further participation in the affairs of Local 560. The trial was conducted on July 16, 1990, but only two witnesses were presented, and the bulk of the evidence upon which a decision must be based was introduced upon applications for preliminary injunctive relief. Fed.R.Civ.P. 65(a)(2). This opinion constitutes my findings of fact and conclusions of law.

Judge Ackerman stayed his March 16, 1984 Judgment Order pending appeal. In consequence Sciarra and the other members of the Executive Board of Local 560 remained in office.

On December 26, 1985 the Court of Appeals for the Third Circuit affirmed the judgment of the district court, and the Supreme Court denied a petition for certiorari. On June 23, 1986 Judge Ackerman lifted the stay and implemented the Trusteeship provided for in the Judgment Order. Thus, there was a period of approximately two years, four and one-half months between Judge Ackerman’s February 1984 opinion detailing the racketeering activity and the 1986 appointment of the trustee and ouster of the Executive Board. During that period, on October 19, 1984 to be precise, Sciarra succeeded Salvatore Provenzano (who had been convicted of defrauding the welfare benefit fund and of receiving kickbacks) as President of Local 560. What transpired during that period is one of the principal subjects of the present proceeding.

Judge Ackerman appointed Joel Jacobson Trustee of Local 560 on June 23, 1986. On May 12, 1987 Judge Ackerman appointed Edwin H. Stier, Esq., in place of Jacobson, and he appointed as Associate Trustee Frank Jackiewicz. Stier undertook numerous measures to achieve his three principal objectives: (a) conducting the day-to-day operations of the union so as to provide effective representation to the membership, (b) using his own background in conducting investigations to organize and oversee inquiries into the affairs of the union and of the pension and welfare funds, and (c) encouraging the members of Local 560 to throw off years of passivity in the face of Provenzano domination and to participate in the affairs of the union.

In early 1988 Stier concluded that although the forces conducive to an uncoerced atmosphere within Local 560 were still fragile and still threatened with organized crime efforts to regain control, an election with suitable controls was feasible.
On February 11, 1988 Judge Ackerman extended the Trusteeship until December 6, 1988 and ordered that general elections be held prior to that date. Nominations were to be made at a membership meeting called for October 9, 1988 and the election by secret ballot was scheduled for November, ballots to be mailed to each member’s home to reduce the opportunities for undue pressure.

Certain developments came to the attention of the government which led it to believe that unless injunctive relief were obtained, the result of the election would be to return Local 560 to the control of organized crime, specifically the Genovese Family. The strongest faction competing for control of Local 560 was Teamsters for Liberty, a group which had never evidenced a critical view of the former leadership and which was dedicated to termination of the Trusteeship. That stance of itself was no reason to interfere with the efforts of Teamsters for Liberty. However, the government had come into possession of evidence which led it to believe that the Genovese Family had determined to regain control of Local 560 and that it had designated Michael Sciarrà as the person through whom it would exercise control. Sciarrà was a dominant force in Teamsters for Liberty, and he and Joseph Sheridan, also a former Executive Board member when the Provenzano Group was in control, were Teamsters for Liberty’s candidates for President and Vice-President, respectively.

Faced with that situation and with the fragile nature of Local 560’s democratic forces the Government instituted the present proceedings, seeking an order prohibiting Sciarrà and Sheridan from further participation in the affairs of Local 560.

On September 14, 1988, after a six-day hearing, I granted preliminary injunctive relief, barring Sciarrà and Sheridan from seeking elective office. Teamsters for Liberty substituted as its candidates for President and Vice-President Sciarrà’s brother Daniel Sciarrà and Sheridan’s nephew Mark Sheridan.

The election was carefully monitored and fairly conducted, and on December 6, 1988 it was announced that the Teamsters for Liberty slate had won. As a result Daniel Sciarrà and Mark Sheridan assumed the offices for which they ran. Other Teamsters for Liberty candidates had been elected to complete the Executive Board. Stier, the Trustee, turned over the day-to-day administration of Local 560 to the newly elected officers and Executive Board but continued to serve in a monitoring role.

On January 9, 1989 the newly elected Board appointed both Michael Sciarrà and Joseph Sheridan to fill business agent positions. Thereupon the government obtained an order to show cause why they should not be immediately barred from holding any appointed position within Local 560 pending the outcome of the trial in the matter. The government urged that Sciarrà and Sheridan gave the appearance of acting as de facto officers of the Local and of exercising actual power consistent with that of incumbent Executive Board members, thus creating the risk of reemergence of Genovese Family control of the Union.

At a hearing on January 30, 1989 I concluded that the development was troubling but that I should not assume without more that the new officers and Executive Board would not exercise full control of the Union or that they would be subject to Sciarrà’s
domination and influence. Consequently I denied the government's application at that time.

The Trustee, pursuant to orders of Judge Ackerman, continued to monitor closely the management of the Union. The new officers and Executive Board members entered upon their duties. Subsequently, Sheridan entered into a settlement with the government, resigning as business agent and agreeing not to involve himself in the future in the management of Local 560. Michael Sciarra, however, remained highly involved in the Union's affairs.

On February 6, 1990 the government moved once again to bar Sciarra from holding any position of trust in the Union, asserting that evidence relating to events during the previous 13 months showed that Sciarra had used his hold on a large and vocal segment of the Local 560 membership and his position as business agent to acquire control of the Union. A second preliminary injunction hearing was held on March 20 and 21, and I concluded that Sciarra had indeed become virtually de facto President of Local 560. On May 8, 1990 I signed an order preliminarily enjoining Sciarra from holding any position of trust within Local 560 and from attempting to influence its affairs.

I scheduled a trial on an expedited basis. The trial began on July 16, 1990.

* * *

On three occasions in the last two years I have held evidentiary hearings concerning Sciarra's continuing role in Local 560. My findings upon the conclusion of the first application for a preliminary injunction are set forth in 694 F.Supp. 1158 (Local 560 No. 2); my findings upon conclusion of the second application for a preliminary injunction are set forth in 736 F.Supp. 601 (Local 560 No. 3). The evidence which was submitted at the trial of the matter consisted of the testimony of Special Agent Mark Dowd of the Federal Bureau of Investigation, the testimony of Michael Sciarra and certain documents. Nothing that developed at the trial leads me to alter the findings set forth in Local 560 No. 2 or Local 560 No. 3. In fact the evidence at the trial fortifies those findings.

The totality of the evidence establishes that: (i) Since March 16, 1984 when Judge Ackerman signed the order granting relief the Genovese Family has sought to maintain or reestablish its control over Local 560; (ii) Michael Sciarra was the person through whom the Genovese Family sought to effectuate its control; (iii) Sciarra accepted this role; (iv) Sciarra has a dominating and forceful personality, and there are no leaders or factions within Local 560 who are able to resist him and the forces within the Union which he controls; and (v) unless Sciarra is removed from any position within Local 560 he will assume control of the Union, directly or indirectly, and thereby subjugate Local 560 once again to the control of the Genovese organized crime family.

[2] The continuing determination of the Genovese Family to maintain control of Local 560 is evidenced by the tape recordings of three conversations held in a
construction shed in Edgewater, New Jersey and by one tape recording of a conversation held at the Palma Boy Social Club in East Harlem. When viewed in conjunction with the findings in Local 560 No. 1; they demonstrate that the efforts of this organized crime group to control Local 560 did not cease with the entry of Judge Ackerman’s order. The personnel changed somewhat, but many old faces continued to appear.

I quoted extensively from those tape recordings in my opinion in Local 560 No. 2, at pp. 1170–1178. I incorporate my earlier findings with respect to the tapes herein and at this point will only summarize them.

The first conversation took place on November 1, 1984 and involved Milton Parness, Matthew Ianniello (a captain in the Genovese Family), Stanley Jaronko (who served on Local 560’s Executive Board with Sciarra) and an unidentified male. Ianniello and Jaronko discussed continued control of Local 560. Jaronko stated that he would “just lay low for eighteen months” (the period during which it was expected a court-appointed trustee would be in office). It was in that conversation that Ianniello directed Jaronko to “let Mike run the show.” The reference was to “Mikey Sciarra.”

The second tape records a November 6, 1984 conversation between Ianniello and Stephen Andretta (one of the defendants who was a member of the Provenzano Group). It was a lengthy conversation concerning numerous persons in the Genovese Family, past and pending criminal endeavors, and the Local 560 RICO case. As to the situation at Local 560, Ianniello stated, “I think Mike Sciarra should take over there. Who can you trust there, anybody else?” Andretta responded, “Mike and I were born and raised together.” Later Ianniello stated, “I’ll send word to [Mike]. I’ll make sure that he knows that you can talk to him as one.” There followed this interchange:

**IANNIELLO:** No, no, I’ll send word to Mike (unintelligible).

**ANDRETTA:** I can see Mike any time you want me to.

**IANNIELLO:** You?

**ANDRETTA:** Yeah.

The third tape records a December 7, 1984 conversation between Ianniello, Stephen Andretta and an unidentified male. That too was a lengthy conversation which dealt with a number of subjects of significance in this case, one of the more important subjects being the New England Motor Freight (“NEMF”) contract. As to the role which Sciarra was to play, the following is illustrative:

**ANDRETTA:** I understand at this point. But with Mikey and then you, you have direct control of Mikey.

**IANNIELLO:** Yeah.

**ANDRETTA:** No question.

**IANNIELLO:** Yeah, he does what I tell him.

A fourth tape recorded conversation had taken place on November 28, 1984 in the Palma Boy Social Club in New York City. The participants were then Genovese
Family boss Anthony Salerno, Louis Gatto, one of his caporegimes, Giuseppe Sabato and Cirino Salerno. The conversation turned to Local 560, and the following exchange took place:

A. SALERNO: But they threw everybody out of office there.
SABATO: Yeah, they're all out.
A. SALERNO: Everybody's out.
SABATO: They're all out.
A. SALERNO: So how can you control it?
SABATO: What do you mean? They got the control in there.
A. SALERNO: Who is that now?
SABATO: Matty (Ianniello).
A. SALERNO: Oh, we got a guy in there?
SABATO: Sure.

These taped conversations must be viewed in the light of the facts disclosed in the 1984 *Local 560* No. 1 opinion. When so viewed there can be no doubt that the Genovese Organized Crime Family intended to maintain its control over Local 560 during the pendency of the appeal from Judge Ackerman's March 16, 1984 Judgment Order, during any period of trusteeship and thereafter. I concluded after the first preliminary injunction hearing and I conclude now that the tapes constitute strong evidence that this control was to be exercised through Anthony Salerno's caporegime Matthew Ianniello and that Ianniello, upon the advice of Stephen Andretta, selected Michael Sciarrà to be the man on the scene at Local 560 to whom orders and instructions could be given.

Thus, notwithstanding the issuance of the March 16, 1984 Judgment Order and the appointment of a trustee on June 23, 1986 the Provenzano Group as it existed in 1984 and as its personnel changed somewhat during the years that followed, never ceased the unlawful conduct described in Judge Ackerman's opinion in *Local 560* No. 1.

* * *

After March 16, 1984 Sciarrà continued to profess his loyalty to Anthony Provenzano and could not bring himself to disavow the criminal and other unlawful tactics of the Provenzano Group nor to admit the existence of the Provenzano Group conspiracy and Genovese Family involvement in the affairs of Local 560. As recently as September 24, 1989, Sciarrà, then a Local 560 business agent, proclaimed to an enthusiastic Local 560 membership his love for Provenzano. I do not take seriously Sciarrà's belated mea culpa delivered on July 17, 1990 at the conclusion of the trial in this matter. That declaration, like so many of Sciarrà's statements over the years, was designed to meet his needs of the moment.

Most of the evidence in this case was introduced at the 1988 preliminary injunction hearing. That evidence disclosed actions on Sciarrà's past which tied him
personally to the taped conversations and the continuing conspiracy. Neither Sciarra's testimony at the trial nor the arguments advanced in his post-trial briefs lead me to change the findings and conclusions with respect to these actions set forth in my 1988 opinion, *Local 560 No. 2*. I incorporate those findings and conclusions herein.

The evidence and findings with respect to the New England Motor Freight ("NEMF") sweetheart arrangements are set forth at 694 F.Supp. at 1173–1177, 1179–1181.

* * *

I cited two other circumstances in my 1988 opinion which tended to confirm Sciarra's continued participation in the Genovese Family efforts to maintain control over Local 560.

The first was the failure to take steps to remove Marvin Zalk as administrator of the Local 560 Welfare Plans after he had been convicted of obstruction of justice in a case involving fraud upon the [Pension and Welfare] Plans. The second was the failure to terminate a contract with a provider of legal services to Local 560 members under circumstances so egregious to defy belief.

* * *

I probably should have granted the government's application to enjoin Michael Sciarra from assuming the position of business agent, but perhaps it is fortunate that I did not do so. Permitting Sciarra to serve as business agent during the January 12, 1989 to May 8, 1990 period when he was supposedly under the control of the Executive Board, provided a demonstration of what would happen if he were given any position within Local 560. He immediately became de facto President of the Union, pushing his brother aside, figuratively and literally, whenever it suited his purpose to do so. Were it not for the continuing intervention of the court appointed Trustee he would have had himself appointed a trustee of two pension and welfare funds maintained for the benefit of Local 560 members. These funds had been grossly misused during the Provenzano years, and one of the principal tasks of the court appointed trustee was to ensure their honest and effective administration.

I issued the 1988 order enjoining Sciarra from becoming President of Local 560 because were he to assume that office there was a strong likelihood that he would lead Local 560 back into the control of the Genovese Organized Crime Family. The evidence submitted at the 1990 second preliminary injunction hearing showed that Sciarra, through his position as business agent, had assumed the power which the first preliminary injunction was intended to keep from him. Therefore on May 8, 1990 I issued a new order preliminarily enjoining Sciarra from holding any office in Local 560.

At the trial of this matter two additional items of evidence further demonstrated Sciarra's continuing ties to the Genovese Family. It will be recalled that Matthew
Ianniello and Stephen Andretta were the principal participants in the tape recorded conversations which established the Genovese Family's continuing plan to control Local 560 and the decision to use Sciarra as the person through whom control would be exercised.

At the trial Special Agent Mark Dowd of the F.B.I. testified that on the morning of June 4, 1990 (less than a month after I had enjoined Sciarra from participating in Local 560 affairs) he and Special Agent Thomas Browne conducted a physical surveillance of Sciarra. This led them to a diner on Route 46 near Little Falls. When the two agents entered, Sciarra was using the pay telephone in the vestibule. They proceeded by him to a booth just inside the dining area. About ten minutes later Sciarra entered this area from the vestibule and walked across the room to two men who occupied a table. The Agent identified one of these men, who was seated in the courtroom, as Local 560 business agent David Keitt. Sciarra conversed with the two men for some minutes. At that point, a fourth individual entered the dining area. Sciarra immediately left Keitt and his companion and walked back towards the entrance where the other man had paused. They exchanged greetings and sat down together at the first booth inside the dining area. Agent Dowd identified this man as Stephen Andretta. After approximately twenty-five minutes, the agents left the diner and waited outside. Keitt and his companion left the diner moments after the two agents. Approximately forty-five minutes thereafter, Michael Sciarra and Stephen Andretta left the diner together. They conversed in the parking lot for a few more minutes, and then departed from the area in their respective vehicles.

The other item of evidence showing Sciarra's continuing association with the Genovese Family was elicited on cross-examination of Sciarra. The Government asked about Jimmy Ida, who had been identified during the August, 1988 proceedings as "Matty" Ianniello's chauffeur and as one of his designated messengers to Michael Sciarra on Local 560 matters. In the monitored conversation of December 7, 1984 Ianniello had told Andretta that Ida could serve as a contact with Sciarra if Andretta were having difficulty with the assignment. On cross-examination Sciarra admitted that he had met with Ida on some seven occasions since 1987 in a cafe in Manhattan's "Little Italy" Section.

Sciarra's explanation of the meetings with Andretta and with Ida was that there was a need to discuss Sciarra's being a defense witness in an upcoming criminal trial at which Andretta and Ida would be defendants. I have little confidence in Sciarra's explanations of events and circumstances generally. At the very least this evidence shows Sciarra's continuing association with the Genovese Family members who devised the plan to exercise control of Local 560 through him.

* * *

As long as Sciarra holds any position within Local 560 he will be able through his forceful personality and through his hold on a large and vocal segment of the membership to dominate and control the Local and its pension and welfare funds. If
he assumes power within the Union it is highly likely that upon termination of the
court appointed trustee’s oversight the Genovese Family would reassert control over
Local 560, undoing all the efforts of the past eight years. Great strides towards the
establishment of union democracy have been made during the period of the trustee-
ship. The return of Sciarra and, through him, Genovese Family influence, would
 crush the movement towards membership control and bring back the dark night of
the strong arm and repression.

Control by Sciarra and through him by the Genovese Family would place the
welfare and pension funds at great risk. They were looted before the court appointed
trustee assumed office and if Genovese Family influence were reestablished it is
almost a foregone conclusion that they would be looted again upon the departure of
the Trustee.

In sum, Sciarra’s presence within Local 560 would subject the union, its members
and its pension and welfare funds to irreparable injury. This injury can be avoided
only by injunctive relief which would prevent Sciarra’s return to any leadership
capacity in Local 560.

* * *

For all the foregoing reasons I conclude that additional relief is required. An order
will be entered permanently enjoining Michael Sciarra from holding any office or
position of trust within or otherwise endeavoring to influence the affairs of Local 560
or any of its benefit plans. The government is requested to submit a form of order.
Interim Settlement Agreement and Consent Decree  
(February 6, 1992)*

3. OBJECTIVES AND INTENT: The parties recognize that Local 560 has historically suffered from a serious labor racketeering problem which has been associated with the destruction of union democracy and intimidation of the individual members. Accordingly, the objective and purpose of this Interim Settlement is to create within Local 560 remedial conditions which will—to the extent possible but in the least intrusive manner—eliminate the vestiges of the documented racketeering problem, forestall the reemergence of any such racketeering problem in the future, and otherwise ensure that any incipient racketeering problem is quickly detected and effectively eradicated. To that end, the remedial effort structured herein seeks (a) to promote and protect union democracy; (b) to protect all union members from invidious economic discrimination; and (c) to foster the existence of an Executive Board which is responsive to the legitimate interests of the entire membership, which is vigilant in the protection of their economic and political rights, which is dedicated to the principles of honest trade unionism, and which will serve as an effective bulwark against the reemergence of an externally induced racketeering problem.

4. THE EXECUTIVE BOARD: Effective upon the first working day after the entry of this Interim Settlement Decree, the Executive Board of Local 560 shall be reconstituted as follows:

a. DANIEL SCIARRA shall resign from the position of President. Thereafter, he shall be eligible to serve in the capacity of shop steward. The office of President shall remain vacant until such time as the District Court shall direct that an election be held to fill the position.

b. Secretary-Treasurer ROBERT MARRA, Recording Secretary ALFRED VALLEE and Trustee PETER GRANELLO shall continue to serve in their present positions and discharge all obligations and responsibilities thereof.

c. From among the remaining three Executive Board positions (Vice President and two Trustees), the current Executive Board shall before the entry of

* [The interim settlement was amended on February 6, 1992. The changes primarily affect the size and composition of the executive board (paragraph 4 of this interim settlement) and permit the board to appoint Alfred Vallee as president of Local 560.]
this Decree select one incumbent to continue in the position of Union Trustee. The two incumbents who are not selected by the process specified herein shall nevertheless remain eligible to serve in any and all positions of trust within the union—including, but not limited to, the position of business agent.

d. Upon entry of this Consent Decree, the Court’s Trustee, Edwin H. Stier, shall promptly appoint from among the members of Local 560 in good standing two suitable members each of whom shall serve in the capacity of Union Trustee upon the Executive Board and shall exercise all powers, duties and responsibilities thereof as specified in the Constitution and By-laws. Those appointees shall serve for the same term and under the same economic and working conditions as pertain to the four remaining incumbents.

e. Thereafter, the Executive Board will function with six members as aforesaid until further order of the Court.

f. The incumbents of the Executive Board acknowledge and the new members of the Executive Board shall acknowledge that they have a heightened awareness of their fiduciary duty to the membership because of the serious racketeering problem within Local 560 as discussed in the five published court opinions which are central to the litigation. In light of the special circumstances discussed therein, each such Executive Board member shall be diligent with respect to discharging the said fiduciary duty and in implementing both in letter and spirit the terms and conditions of this Agreement in order to achieve the remedial objectives of the Court Opinions. Each such member has an affirmative and continuing obligation to be vigilant with respect to preventing or otherwise detecting and remedying the types of derelictions, abuses and corrupt practices which the various court opinions have identified as having contributed to the racketeering problem of the past. Any incumbent who shall hereafter violate the fiduciary duty in a manner which materially endangers the remedial objectives of the Court Trusteeship or whose conduct shall otherwise bring discredit upon Local 560 or the International Brotherhood of Teamsters under the standards established by the Independent Administrator of the I.B.T. or who otherwise engages in a course of conduct which is inimical to or obstructive of the remedial process of the Court Trusteeship shall, in addition to internal remedies, be subject to removal from office upon a finding of such misconduct after notice and a hearing before the District Court.

\[ g. \] Robert Marra, Peter Granello and the third incumbent named by the Executive Board pursuant to subparagraph “c” above shall promptly select and designate a Co-Chair of the Executive Board. Alfred Valle and the two Union Trustees appointed pursuant to subparagraph “d” above shall also promptly select and designate a Co-Chair of the Executive Board. The designation of the two Co-Chairs shall be subject to approval by the Court Trustees. The Co-Chairs of the Executive Board shall jointly perform the responsibilities
and functions of the President as long as that position remains vacant pursuant to the provision of subparagraph "a" above.

5. THE CONSTRUCTION FIELD: The following special provisions shall apply to the area of construction within the jurisdiction of Local 560:

a. The Executive Board and its successors shall not in the future appoint former Business Agent Onofrio Mezzina to any position of trust (including particularly "shop steward" or "business agent"). In the event that Onofrio Mezzina, is, in accordance with the then-existing union practices, employed as the sole union member upon a construction site or at some other place of employment, he shall not thereby gain the position of "steward" nor shall the Executive Board permit him to exercise the responsibilities of nor otherwise hold himself out to be a "steward" nor to derive any status or benefit of the steward's position thereby. Moreover, Mezzina shall not be employed as nor otherwise permitted to act in the capacity of a service provider for Local 560 unless specifically authorized by this Court after notice to the Government and an evidentiary hearing upon his suitability. Notwithstanding the foregoing, the Executive Board may compensate Mezzina at the hourly rate of a business agent for services rendered during any brief period which is necessary to accomplish an orderly transition, and it may otherwise compensate him from time to time for lost wages and benefits necessitated by his services as a witness.

* * *

b. The Court's Trustee shall promptly appoint to the Business Agent position which Mezzina has just vacated a suitable candidate from among the eligible members of Local 560.

c. The Business Agent thereby appointed shall also hold the title of Local 560 Construction Referral Administrator and shall administer the Local 560 construction referral system referred to in subparagraph "d" below.

d. Within thirty days of the entry of this Decree, the Executive Board shall present to the Trustee and the Government for their approval a comprehensive plan for a fair system for job referrals in the construction field. The new system will have as its primary objective the allocation of the available work based upon rational principles and fundamental fairness. The system shall ensure to the extent possible that the membership is able to ascertain without undue difficulty the actual operation of the system with respect to particular job referrals. The system shall incorporate safeguards reasonably available to protect its integrity.

6. THE COURT TRUSTEE: Nothing contained herein shall be construed as limiting the powers, duties and responsibilities presently assigned to the Court's Trustee.

a. Incidental to the discharge of the Court Trustee's general oversight responsibility, the Executive Board shall on a weekly basis provide the Court
Trustee with a certified report or minutes of all Executive Board meetings and of all other decisions of the Executive Board, whether or not made within the confines of a formal meeting. These certified minutes or reports shall be detailed and complete.

b. The Executive Board shall inform the Court Trustee in particular detail about its proposed actions with respect to the appointment or removal of all subordinate officials, the retention, performance and/or termination of service providers and vendors (when the aggregate cost exceeds $5,000 per annum), and the hiring or dismissal of employees.

c. The Trustee shall have plenary powers to investigate and to report to the Court upon the operations of the union and the progress of the remedial effort of the Court Trusteeship—particularly with respect to the potential reemergence of the racketeering problem and the various conditions affecting union democracy. In conducting any such investigation, the Court Trustee shall have complete and unfettered access to all records, officials and employees of Local 560.

d. Local 560 shall provide reasonable compensation for such auditors or investigative accountants and support personnel as the Trustee deems necessary to discharge his investigative duties and responsibility.

7. REMEDIES: Any party herein and the Trustee may, upon notice to others concerned, make application to the Court for enforcement of or relief from any of the terms and provisions contained herein; and the Court may grant such relief as shall be equitable and just, having due regard for the purpose of the underlying litigation, the remedial objectives of the Court Trusteeship and the Opinions related thereto, and circumstances existing at the time of the application. Any willful violation of any restriction or prohibition contained herein, or other disobedience of any mandate of this Decree shall be punishable as a contempt of court.