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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

JUDGE KOCORAS

UNITED STATES OF AMERICA)

No: 07 CR 580

v.)

Hon. Charles P. Kocoras

RICHARD LOPEZ,
CASSANDRA MOSLEY,
DAVID RODRIGUEZ,
ROBERT WALSTON, and
THADDEUS BANIA.)

Violations: Title 18, United States
Code, Sections 371, 1341, 1346,
and 2;
Title 29, United States Code,
Section 501(c)

SUPERSEDING INDICTMENT

COUNT ONE

MAGISTRATE JUDGE DENLOW

The SPECIAL AUGUST 2006-2 GRAND JURY charges:

- 1. At times material to this Superceding Indictment:

GENERAL ALLEGATIONS

Local 743 of the International Brotherhood of Teamsters

a. International Brotherhood of Teamsters ("the Teamsters") is an international labor organization with over one million members. Local 743 is a local labor union based in Chicago, Illinois, chartered by the Teamsters. Local 743 is subject to the constitution of the Teamsters and the by-laws of Local 743.

b. Local 743 represents members in collective bargaining with employers engaged in warehouse, office, service, and other industries affecting interstate and foreign commerce with respect to wages, hours, grievanccs, and other terms and conditions of employment. Pursuant

to that representation, Local 743 has executed collective bargaining agreements with employers within its jurisdiction covering the Chicago area and Northern Indiana.

c. Both the Teamsters and Local 743 are "labor organizations" engaged in industries and activities affecting commerce within the meaning of the Labor Management Reporting and Disclosure Act ("LMRDA"), Title 29, United States Code, Sections 402(l) and (j), and are subject to the provisions of the LMRDA governing "labor organizations."

d. As a labor organization, Local 743 was required by section 481(b) of the LMRDA to hold elections for its officers every three years.

The Defendants

e. Defendant ROBERT WALSTON was an officer and a person employed by Local 743, that is, secretary-treasurer from 1999 until 2001, and president from 2001 until August 2007.

f. Defendant RICHARD LOPEZ was an officer and a person employed by Local 743, that is, recording secretary and a business agent from 1999 to 2005, secretary-treasurer from January 2006 to August 2007, and president from September 2007 to December 2007.

g. Defendant THADDEUS BANIA was a person employed by Local 743 as comptroller and dues administrator from 2001 until December 2007.

h. Defendant CASSANDRA (DAVIS) MOSLEY was a person employed by Local 743 as a business agent and organizer from 1991 until December 2006.

i. Defendant DAVID RODRIGUEZ was a person employed by Local 743 as an organizer from 2003 to July 2007.

j. Mark Jones was a person employed by Local 743 as the director of organizing and a business agent from 2003 to July 2006.

Duties Upon Officers and Employees

2. Pursuant to the LMRDA, Title 29, United States Code, Section 501(a), "officers, agents, shop stewards, and other representatives of a labor organization occupy positions of trust in relation to such organization and its members as a group." As an officer, agent, and/or representative of Local 743, each of the Defendants was subject to section 501(a) of the Labor Management Reporting and Disclosure Act, Title 29, United States Code. In such capacities, Defendants occupied a position of trust in relation to Local 743 and its members as a group, and were subject to the fiduciary duties set forth in section 501(a) including: (1) to hold its money and property solely for the benefit of Local 743 and its members and to manage and expend the same in accordance with the Teamsters Constitution and the by-laws of Local 743 and applicable resolutions of Local 743's governing bodies; (2) to refrain from dealing with Local 743 as an adverse party or on behalf of an adverse party in any matter connected with their duties; and (3) to refrain from holding or acquiring any pecuniary or personal interest which conflicts with the interests of Local 743 in any transaction conducted by him or under his direction on behalf of Local 743.

3. Local 743 constitutes a "local labor organization." As a local labor organization, the elections of officers in Local 743 are subject to Sections 481(b),(c), and (e) of the LMRDA.

4. Pursuant to Section 481(b) of the LMRDA, "Every local labor organization shall elect its officers not less often than once every three years by secret ballot among the members in good standing."

5. Pursuant to Section 481(c) of the LMRDA, "Adequate safeguards to insure a fair election shall be provided, including the right of any candidate to have an observer at the polls and at the counting of the ballots."

6. Pursuant to the Section 481(e) of the LMRDA:

In any election required by this section which is to be held by secret ballot . . . every member in good standing . . . shall have the right to vote for or otherwise support the candidate or candidates of his choice, without being subject to penalty, discipline, or improper interference or reprisal of any kind by such organization or any member thereof.

Each member in good standing shall be entitled to one vote. The votes cast by members of each local labor organization shall be counted, and the results published, separately.

The election shall be conducted in accordance with the constitution and bylaws of such organization insofar as they are not inconsistent with the provisions of this subchapter.

7. As members of the Teamsters, each of the Defendants was subject to the Teamsters Constitution, including the following provisions:

Sections 7(b)(1), (2), and (3) of Article XIX which prohibits members and officers from committing a violation of any specific provision of the Constitution, Local Union Bylaws or rules of order, or failure to perform any of the duties specified thereunder; committing a violation of oath of office or of the oath of loyalty to the Local Union and the International Union; and breaching a fiduciary obligation owed to any labor organization by any act of embezzlement or conversion of union's funds or property;

Section 9 of Article XIX which prohibits members and officers from wrongfully taking or retaining any money, books, papers, or any other property belonging to the International Brotherhood of Teamsters, any Joint Council, Local Union, or other sub-ordinate body;

Section 4(b) of Article XXII which specifies that the Local Union's Executive Board shall provide safeguards for the honest and fair conduct of local union election of officers.

8. As officers of Local 743, Defendants ROBERT WALSTON and RICHARD LOPEZ were subject to the by-laws of Local 743, including Section 15, which requires all officers faithfully to comply with and enforce the terms of the Teamsters Constitution and to be accountable to the membership with respect to the performance of their duties in handling the property of Local 743.

Election of Local 743 Officers in 2004

9. On or about August 2004, the Executive Board of Local 743 scheduled a mail ballot election for its officers for the term January 2005 through December 2007 to be held from September 22 to October 16, 2004 ("the October 2004 election") and adopted rules and procedures governing that election.

10. In September 2004, Local 743 purchased official ballot packages for the October 2004 election consisting of: (1) an outer envelope in which the ballots would be delivered by mail to Local 743 members; (2) a secret ballot; (3) a secret ballot envelope in which a cast ballot would be sealed; and (4) a return envelope in which the cast ballots inside the secret ballot envelope would be returned by mail to Local 743 for tallying.

11. On or about September 22, 2004, the official ballot packages in the October 2004 election were mailed to Local 743 members.

12. On or about October 16, 2004, the elections officer for the October 2004 election began tallying the ballots which had been returned by mail to Local 743.

13. On or about October 18, 2004, the Executive Board of Local 743 permanently suspended the tallying of ballots in the October 2004 election before its conclusion and scheduled