Testimony of Robert G. DeRusha

Rep. Hoekstra, members of the Committee, my name is Robert DeRusha. I thank you for the opportunity to testify on this important subject. And, I thank you and the Committee for undertaking the difficult and controversial task of investigating what has happened to the International Brotherhood of Teamsters and its members because of the Government's failure to protect the Union from corruption.

The Teamsters Union was an important part of my life for almost 45 years. In fact, for much of that time, the Union *was* my life. I was privileged to represent my brothers and sisters as a Local Union Officer for 28 years, as an officer at Joint Council 10 in Boston for more than 20 years, and as an International Union Trustee for 7 years.

I retired from the Union at the end of 1995 largely because of my health. It was a difficult decision. Anyone who knows me will tell you that I'm stubborn and determined old so-and-so, and I was in a fight that I did not want to give up. The three International Union Trustees – Bob Simpson, who is here with me today, Ben Leal and I – were trying to determine how and why General President Carey and his administration were spending the Union into bankruptcy.

You may not be familiar with the structure of the Teamsters Union. The International Union is run on a day-to-day basis by the General President, then Mr.

Carey, and the General Secretary-Treasurer, then and now Mr. Tom Sever. The principal governing body of the Union is the General Executive Board, commonly referred to as the "GEB." The GEB acts much as a board of directors in a corporation. The GEB consists of the General President, the General Secretary-Treasurer and 19 International Vice Presidents. It meets quarterly. The three International Trustees attended and participated in the meetings of the General Executive Board, but their specific responsibility, as assigned by the IBT Constitution, is to "review" the Union's "books" "once during every six-month period."

I was first appointed an International Trustee in January 1989, to fill a vacancy in that position. The Consent Decree, which went into effect later in 1989, provided that the General President, General Secretary-Treasurer and the International Vice Presidents would be elected in 1991 directly by the membership while the three International Trustees would be elected by the delegates at the 1991 IBT Convention. Those delegates were all selected at the Local Union level through elections supervised by the Election Officer who was then Mr. Michael Holland. Trustees Simpson, Leal and I were elected by a clear majority of the delegates at the 1991 Convention. Mr. Carey and his slate were elected by the membership in December 1991. All of the officers took office on February 2, 1992.

Initially, there was no change in the access and cooperation afforded the Trustees. That previous practice was as follows:

The International Trustees attended every quarterly meeting of the General Executive Board. We were given copies of the same financial reports, minutes and other documents that were given to the other International Union officers. We were present during the entire meeting, including the financial report given by the General Secretary-Treasurer. Although we did not have a vote, we participated, commented on matters coming before the GEB, particularly with respect to financial matters, and had an equal opportunity to ask questions with the other officers.

The General Secretary-Treasurer and his staff set aside several days twice each year for our review of the Union's books. This usually occurred in April for the last six months of the previous year and in October for the first six months of the current year.

The General Secretary-Treasurer would set up a schedule of interviews so that we could talk to and question the heads of all the Union's Departments, the Union's accountants and the people responsible for all the Union's financial affairs. The schedule included:

- the Organizing Department,
- the Communications Department, which was responsible for publishing the IBT Magazine,
- the Legislative and Political Department, including the Teamsters' Political Action Fund called DRIVE,
- the Legal Department, including what lawsuits were outstanding and what fees, costs and settlements had been paid,
- a report on Civil RICO expenses paid by the IBT, including costs and expenses paid to the Court-appointed officers,
- the Union's Accountants
- the Union's Investment Manager
- the manager of the Payroll Department
- the manager of Accounts Payable
- the manager of Accounts Receivable

We were given reports on the Union's financial statements by the Accountants and on the status and performance of the Union's investments by the Investment Manager.

We were allowed to review and check the payment of expenses and expenditures for Union employees, for supplies and for outside services.

We checked the payment of per capita by local unions and the payment of out-of-work benefits.

We were allowed to interview the heads of the Purchasing Department, Travel, the Accounting Department, the Payroll Department, the Accounts Receivable Department and all charitable contributions. In each case, we were allowed to question the individual responsible without restriction. We were given copies of documents detailing the status of and transactions for each of these areas. When we asked for additional documents, they were quickly provided.

As an example of this process, I have attached to my testimony a copy of the "Audit Procedures" for the 6-month periods ending December 31, 1992, and June 30, 1993 (Exhibits 1-2).

The regular procedure and cooperation of the Union's officers and staff came to a grinding halt after the Trustees sent General President a letter in August 1993 outlining our concerns about the Union's deteriorating financial condition and our suggestions for various changes that would help stop this decline.

I first should note that the Union's worsening financial situation was no secret. Everyone knew that the $200/week strike benefit passed by the 1991 Convention would eventually deplete the Strike Fund. General President Carey and his delegates supported this increase from the previous $50/week benefit. Brother Carey made no motion or effort during the 1991 Convention to increase dues to pay for the increase.

In December 1992, Brother Carey and Brother Sever warned the General Executive Board that the situation was "critical" and advised that "It may soon be necessary to address this problem at a Special Convention." Brother Carey also acknowledged the problem in the Teamster Magazine.

And the Trustees asked at every GEB meeting what Brothers Carey and Sever intended to do about the problem. They said they would address the problem, but the months slid by and no action was taken to curb spending or to call a Special Convention.

The Trustees were worried. We were the financial watchdogs elected by the membership. We had a duty to the membership. Our repeated questions and suggestions brought no change and no response. We finally decided that it was time to put our fears and suggestions in writing. We believed we had to do something to

protect the members of the Union from what we saw as Brother Carey's runaway spending.

We made several very basic, commonsense suggestions:

- an immediate hiring freeze
- a reduction in staff
- a return to per diem to replace the unlimited use of union credit cards to pay for the expenses of Union officers and employees
- strict controls on air travel, hotel expenses and car rentals
- establish a procedure for the International Union to intervene in potential strike situations to try to resolve the dispute and prevent the need for a strike and thus avoid the need to pay strike benefits
- control Organizing Department costs
- cut back printing of the IBT Magazine from 10 to 6 times a year
- seek a decrease in the payment of affiliation fees to the AFL-CIO
- call a Special Convention to address dues, strike benefits and other critical issues

A copy of our letter is included with my written testimony (Exhibit 3).

It took almost six weeks before we got any response from Brother Carey. And by the tone of his letter, you would have though that we had suggested treason!

Brother Carey rejected all of our suggestions. He accused us of trying to "isolate" and weaken the Union, of trying to "reduce communications with the members," and "cut back on organizing." Then Brother Carey personally attacked us and even went so far as to allege that somehow the Trustees were responsible for the Union's worsening financial condition. Again, I have attached a copy of Brother Carey's letter (Exhibit 4).

Our next review of the Union's books, covering the last six months of 1993, was due to take place in April 1994. By that time, the Union was in crisis. General President Carey continued to refuse to call a Special Convention, but, in early 1994, he conducted a mail referendum among the membership seeking a 25% increase in dues. I and many other Union officers opposed the referendum because we believed that, under the IBT Constitution, the General President had no authority to conduct a referendum with respect to a dues increase and that only a Special Convention had the authority to increase dues. The referendum failed. The members voted 3-1 against, 387,420 to 123,558.

In April, Brother Carey took the members employed in the freight industry out on strike, costing the Strike Fund approximately $14 million in strike benefits each

week. The freight strike quickly depleted the Union Strike Fund, and the Union had to borrow $15 million from other Unions to pay benefit for the fourth week of the strike. We couldn't afford another week and were forced to capitulate to the employer's demands.

The Trustees were anxious to come to Washington in April. We thought it was time to look deeply into the books to see exactly where the Union was spending all the money. We knew about the problem with the strike benefits. But the Union's financial problems went beyond the strike fund. The Union's general fund, what you might refer to as its operating fund, was being depleted, too, and at an ever increasing rate. We believed we had a duty to our Union brothers and sisters to find out where the money was going.

As a result of our August 1993 letter, the International Union Trustees suddenly went to the top of Brother Carey's "enemies" list. He and General Secretary-Treasurer Sever did everything they could to keep us from reviewing the books and investigating the Union's finances.

- General President Carey barred us from attending GEB meetings. As a result, we no longer received copies of the quarterly financial statements that were distributed at those meetings, were not present when the financial report was given, and had no opportunity to ask questions about the report or the Union's financial status.

- General Secretary-Treasurer Sever refused to provide us with the documents and information we requested and that we needed to perform our review. In some cases we were ultimately allowed to review the documents after repeated requests. In most cases, we were never allowed to see what we had requested.

- General Secretary-Treasurer Sever refused to let us have copies of documents or even to use a tape recorder to record our notes and observations. We were even denied copies of papers that were filed with the Government and therefore were available to the public. We were denied copies of the minutes of GEB meetings, refused copies of resolutions passed by the GEB, and denied financial reports made by the General Secretary-Treasurer and distributed to the GEB. As a result, we were forced to making handwritten notes of lengthy financial documents. That was the only way we could study these documents, analyze the Union's finances and prepare our reports.

- We were denied the assistance of a Certified Public Accountant. Both the accountants on the staff of the General Secretary-Treasurer and the CPA from Grant Thornton refused to prepare any of the reports or analyses we requested.

  Any labor lawyer will tell you that a union member asking to inspect the books, records and accounts is entitled to have the assistance of attorneys, accountants or other professionals of his or her own choosing and is entitled to make copies of records to the extent necessary for further analysis. Although we were *elected* Union officers and, specifically, were elected as the financial watchdogs of the Union, we were not allowed any of these rights in conducting our review.

- General Secretary-Treasurer Sever assigned a member of his staff to watch us while we examined the Union's books. We were not allowed to look at anything unless there was someone watching us.

- We were instructed that we could interview the heads of the Union's various departments only if we submitted the questions we wanted to ask them in advance and in writing.

- General President Carey refused to meet with us to discuss either our findings or the problems we encountered. We were told that Brother Carey was "busy" with some other matter and had no time to speak to us. We tried making an "appointment" weeks in advance, but that didn't work either.

- We were personally attacked. The IBT Communications Department has issued several press releases that include what can only be characterized as personal attacks on each of us.

- We were warned that the Union's financial information was "confidential," that we were to submit our report only to General President Carey, and that we are not to discuss our findings with any other union member.

- In February 1995, Brother Sever threatened to have me "investigated" unless I backed off from pursuing a vigorous review of the International Union's books and record. The next week the International Union sent an auditor into Local 437, my home Local.

In short, Brother Carey and Brother Sever did everything they could to obstruct our review and prevent us from performing our duties under the IBT Constitution. We were forced to make handwritten notes of anything we wanted to study or use in our reports. We were personally attacked by the IBT Communications Department. And we were threatened.

It seems impossible that any Union officer could do what Carey and Sever did and get away with it. Unions are supposed to be democratic institutions, and federal

law is supposed to guarantee that elected officers get the information they need to carry out their fiduciary responsibilities to the membership.

We sought relief. Although we held out little hope for fair treatment, we appealed to the GEB. Of course, the GEB was (and still is) controlled by Brother Carey and the officers who ran with him on his slate. Not surprisingly, our appeals were denied.

So we sent copies of our appeals and wrote letters to the United States Attorney and to the Independent Review Board. We never had any response from the United States Attorney. The Independent Review Board had a lawyer take our depositions. And we sent the IRB additional evidence concerning obstruction by Brothers Carey and Sever. But to no avail. The IRB refused to do anything. The IRB's letter said, "it does not appear that you have been prevented from performing your duties as International Trustees." It concluded that, "we do not believe that intervention by the Independent Review Board ("IRB") in this matter is warranted at this time." (Exhibit 5.)

I don't know that we would have been able to uncover any of the schemes that the Carey administration use to embezzle funds from the International Union. But I do

know that we were able to uncover a number of highly questionable, if not flatly illegal, financial practices.

These are some of the things that we were able to uncover:

- The Union never implemented a budget. Nor did it have any controls on departmental spending. The only thing we ever found was what the Union called a "spending plan." And that's exactly what it was, a plan to "spend" money. In 1993 that "spending plan" was designed to allow the Union to spend $138 million while taking in only $71 million in dues. That's a deficit of $67 million!

- The Union paid for housing in Washington for certain officers and staff who were assign to work in Washington full-time. Some officers and employees were allowed to fly first class. The Union also paid expenses for several favored officers and employees to travel "home" on weekends and at other times. And the Union paid personal income taxes for these officers and staff to the extent that the housing and travel expenses had to be declared as personal income. Under all prior administrations, Washington staff either moved to Washington or paid their own commuting expenses.

- The Union scheduled meetings and negotiations at resorts and other luxury locations.

- The Union paid for private offices with private secretaries for several officers at locations outside of Washington, D.C.

- The Union still had no way to identify the costs associated with any particular organizing campaign or corporate campaign. We had no way to tell whether we were spending our organizing budget either effectively or wisely.

- The Union failed to fully and properly disclose all payments made to or on behalf of individual officers and employees on the LM-2 report required by federal law. The LM-2 also failed to note in any way, or to record as additional earnings, the fact that the International Union pays the employee's share of

FICA for all officers and employees. In United States v. IBT (Vitale), 141 L.R.R.M. 2106 (1991), Judge Edelstein found that a local union officer violated his fiduciary duty when he signed an LM-2 report that "did not reveal that the Local was paying the FICA tax on behalf of its officers and employees." Why is there a different rule for Brother Carey?

- The International Union continued to fail to provide any meaningful financial information to Local Unions and their members concerning the International Union's financial condition, how it was spending their dues money or how (or even whether) it was reducing expenditures in order to eliminate the Emergency Assessment.

- The International Union continued to list more than $40 million worth of "contributions" to the Teamster Affiliates Pension Plan and the Family Plan (for International officers and employees) for 1992, 1993 and 1994 as "liabilities" even though these "contributions" have never been paid and, even though, the Affiliates Plan now has a significant surplus. (I understand that Brother LeFevre is here to address this particular issue.)

These were some of the recommendations we made:

- The International Union should immediately adopt a budget and implement budget controls that would bring spending in line with revenues.

- The International Union should require accurate and full disclosure of all individual expenses.

- The International Union should discontinue its extraordinary practice of providing local housing and weekend travel for Washington-based officers and staff.

- The International Union should revise its computerized bookkeeping system to enable it to identify the costs associated with each and every one of its activities.

- The International Union should provide a monthly update of its financial situation to each Local Union, showing its progress against a "balanced" budget to eliminate the "Emergency Assessment."

- The International Union should immediately file an amended LM-2 showing that it pays the employee's share of FICA for all officers and members.

I have attached copies of our reports (Exhibits 6-7).

Again, we sent our reports containing our findings and recommendations to the IRB, to the United States Attorney and to the Court. Again, nothing was ever done.

We were still fighting with the International Union, trying to fulfill our duties as International Trustees, still trying to get the information we needed, when I retired at the end of 1995. We still had not been allowed to see the financial and other documents we had requested. A copy of my retirement letter is attached (Exhibit 8).

I don't know why the Government, the United States Attorney, the IRB and the Court did nothing while Brother Carey, Brother Sever and the other members of the Carey Slate were allowed to run the Union into the ground. I just know that that's exactly what they did – nothing. It should never be allowed to happen again.

Thank you for allowing me to testify.