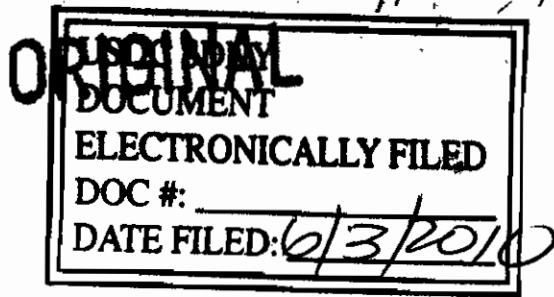


MAKHT 5



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
UNITED STATES OF AMERICA,

Plaintiff,

v.

DISTRICT COUNCIL OF NEW YORK CITY
AND VICINITY OF THE UNITED
BROTHERHOOD OF CARPENTERS AND
JOINERS OF AMERICA, et al.,

Defendants.
----- X

90 Civ. 5722 (CSH)

**STIPULATION AND ORDER
REGARDING APPOINTMENT OF
A REVIEW OFFICER**

WHEREAS, on March 4, 1994, the Court approved a Consent Decree (the "Consent Decree") in the above-captioned action, brought under the civil remedies provisions of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961 *et seq.*, between plaintiff the United States (the "Government") and defendants, including the District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America ("District Council"). The Consent Decree among other things permanently enjoined all current and future officers, employees, and members of the District Council and its constituent locals from engaging in any act of racketeering activity as defined in 18 U.S.C. § 1961; knowingly associating with any member or associate of any La Cosa Nostra crime family or any other criminal group, or with any person prohibited from participating in union affairs (collectively, "barred persons"); and obstructing or interfering with the work of the officers described in the Consent Decree;

WHEREAS, by Order dated December 18, 2002, the Court entered a Stipulation between the United States and the District Council (the "December 2002 Stipulation and Order"), which created the position of Independent Investigator and empowered the Independent Investigator to, among other things, "investigate allegations of wrongdoing concerning the operation of the job referral system and/or corruption or violations of federal, state, or local law by District Council representatives, including without limitation officers, employees, delegates, business managers, business agents, and shop stewards . . . concerning the operation of the job referral system." December 2002 Stipulation and Order ¶ 6.a. A successor Independent Investigator was appointed by Order dated August 22, 2005 (the "August 2005 Order"), with substantially the same powers as the original Independent Investigator;

WHEREAS, on April 18, 2007, the District Council and its President, Peter Thomassen, were adjudicated in contempt of court for violating the Consent Decree by failing to give the Government prior notice of the District Council's intent to enter into collective bargaining agreements in 2001 with associations of contractors that altered job referral rules contained in the

Consent Decree, *see United States v. District Council*, 2007 WL 1157143 (2d Cir. Apr. 18, 2007);

WHEREAS, on September 17, 2007, Michael Forde, Executive Secretary-Treasurer of the District Council and a trustee of its Benefits Funds, was held in contempt of court for violating the Consent Decree by participating in an unlawful shop steward referral, *see United States v. District Council*, 2007 WL 2697135 (S.D.N.Y. Sept. 17, 2007);

WHEREAS, in recent years certain persons have been convicted of criminal offenses relating to the District Council and the Benefit Funds;

WHEREAS, fraud and inaccurate reporting by certain employers required to contribute to the Benefit Funds have deprived the Benefit Funds of such contributions;

WHEREAS, on August 5, 2009, an indictment by a grand jury in this district was unsealed, charging various acts of racketeering against certain employees and representatives of the District Council, including Michael Forde, Executive Secretary-Treasurer and a trustee of the Benefit Funds; John Greaney, Business Manager of Local Union 608, a constituent local of the District Council, and a trustee of the Benefit Funds; Brian Hayes, Business Representative for Local Union 608 and Local 608 Executive Board Trustee; and Shop Stewards Michael Brennan, Brian Carson, Joseph Ruocco, John Stamberger, and Michael Vivenzio, along with Joseph Olivieri, a contractor association representative and a trustee of the Benefit Funds, and Finbar O'Neill, a contractor. *See Superseding Indictment, United States of America v. Forde*, S3 08 Cr. 828 (S.D.N.Y.);

WHEREAS, following the indictment described in the previous paragraph, the United Brotherhood of Carpenters and Joiners of America ("UBC") determined that "the affairs of the District Council are being conducted in a manner detrimental to the welfare and best interests of the District Council, the UBC, and its members, and/or contrary to the provisions and requirements of the UBC Constitution, and that the continued operation of the District Council is in jeopardy"; further determined, pursuant to its authority under the UBC Constitution, that "an emergency situation exists regarding the District Council requiring immediate action by the UBC to protect and preserve the welfare and interests of the membership"; and therefore placed the District Council under emergency trusteeship. *See Letter from UBC General Pres. Douglas J. McCarron to District Council President Peter Thomassen dated Aug. 10, 2009*;

WHEREAS, pursuant to the UBC Constitution and Laws, the UBC appointed a trustee (the "UBC Trustee") to assume full supervisory authority over the District Council, including the power to assume and exercise full and complete authority over the conduct of the District Council's affairs;

WHEREAS, the UBC Trustee of the District Council is empowered under the UBC Constitution to consent to the relief contained herein on behalf of the District Council and its constituent locals, and so binds these entities and their members to the terms and conditions of this Stipulation and Order Regarding Appointment of a Review Officer ("Stipulation and Order");

WHEREAS, the Board of Trustees of each of the Benefit Funds, as defined below, consents to the relief contained herein on behalf of the Benefit Funds;

WHEREAS, while the Government and the Benefit Funds disagree on the question of whether the Benefit Funds are bound by the Consent Decree and the effect of this Court's 1996 order in *United States v. District Council*, 1996 WL 221584 (S.D.N.Y. May 2, 1996), the Government and the Benefit Funds agree that by consenting to this Stipulation and Order the Benefit Funds do not concede the applicability of the Consent Decree to them, and further agree that the Benefit Funds' consent to this Stipulation and Order may not be used in any way to support the argument that the Benefit Funds are or should be bound to the Consent Decree; and

WHEREAS, the presence and activity of an independent court-appointed officer granted powers beyond those provided to the Independent Investigator in the December 2002 Stipulation and Order and the August 2005 Order, as set forth below, are essential to the eradication of corruption and racketeering as they affect union carpenters and union employers; now, therefore,

IT IS HEREBY ORDERED, upon the stipulation and agreement of the Government, the District Council, and the Benefit Funds, as follows:

I. **Definitions.** As used herein:

- a. "Benefit Funds" means the New York City District Council of Carpenters Pension Plan, the New York City District Council of Carpenters Welfare Fund, the New York City District Council of Carpenters Vacation Fund (now part of the Welfare Fund), the New York City District Council of Carpenters Annuity Fund, the New York City District Council of Carpenters Apprenticeship Journeymen Retraining Educational and Industry Fund, the New York City Carpenters Relief and Charity Fund, the New York City District Council of Carpenters Scholarship Fund (part of the Welfare Fund), and any other fund or plan established now or in the future for the benefit of members of the District Council pursuant to section 302(c)(5) of the Labor Management Relations Act, 29 U.S.C. § 186(c)(5).
- b. "District Council" means the District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America. As used herein, "District Council" includes all constituent local unions, as well as the New York City District Council of Carpenters Retirement & Pension Plan for Officers and Employees and any other fund or plan established now or in the future for the benefit of the District Council's employees or officers as defined in 29 U.S.C. § 1002(3).
- c. "Job Referral Rules" means the job referral rules established by the Consent Decree, as modified by any subsequent order of the Court.
- d. "Member of the District Council" means any person who is a member of any union or labor organization that constitutes part of the District Council.

2. **Authority of the Court.** The Court has authority to enter this Stipulation and Order pursuant to its inherent power, including the inherent power to enforce, ensure compliance with, and modify the Consent Decree; Rule 60(b) of the Federal Rules of Civil Procedure; the Court's contempt powers; and 18 U.S.C. § 1964.
3. **Appointment of Review Officer.** Dennis M. Walsh, of the law firm Fitzmaurice & Walsh, LLP, in White Plains, New York, is hereby appointed as Review Officer, effective upon entry of this Stipulation and Order.
4. **Role of the District Council and the Benefit Funds.**
 - a. **District Council:** The appointment of the Review Officer does not diminish the responsibility of the District Council to (i) take all reasonable steps to eliminate criminal elements, criminal activities, racketeering, and corruption from any part of the District Council and its operations; (ii) maintain and run the District Council democratically and without unlawful influence; and (iii) comply with and work in good faith to achieve the terms and objectives of this Stipulation and Order.
 - b. **Benefit Funds:** Neither the appointment of the Review Officer nor the consent of the Benefit Funds to this Stipulation and Order diminishes the responsibility of the Benefit Funds to (i) take all reasonable steps to eliminate criminal elements, criminal activities, racketeering, and corruption from any part of the Benefit Funds and their operations; (ii) maintain and run the Benefit Funds without unlawful influence; and (iii) comply with and work in good faith to achieve the terms and objectives of this Stipulation and Order with respect to the Benefit Funds. Neither the appointment of the Review Officer nor the consent of the Benefit Funds to this Stipulation and Order diminishes in any way the fiduciary responsibilities of the trustees of the Benefit Funds.
5. **Authority of Review Officer.** The Review Officer is granted the following authority, rights, and responsibilities:
 - a. **General Authority.** The Review Officer is granted authority to ensure compliance with the injunctions set forth in the Consent Decree; to investigate the operations of the District Council and the operations of the Benefit Funds, including but not limited to investigating allegations of corruption and wrongdoing by officers, representatives, agents, employees, members, and trustees; to bring disciplinary charges against any District Council officers, representatives, agents, employees, or members; and to exercise the authorities, rights, and powers described below. The reference herein to trustees of the Benefit Funds is to be construed as referring to the trustees solely in their capacity as trustees of the Benefit Funds.
 - i. **District Council:** In exercising his powers and responsibilities as described in this Stipulation and Order, the Review Officer, to the maximum extent practicable, should consult with the District Council prior to taking any action with respect to the District Council, and permit the District Council to act on its

own in the first instance to effectuate the terms and objectives of this Stipulation and Order. The District Council, in turn, must consult with the Review Officer as to what actions are advisable to effectuate the terms and objectives of this Stipulation and Order. However, with respect to any matter as to which the Review Officer has authority under this Stipulation and Order, the Review Officer need not consult with the District Council, or permit the District Council to act first, regarding any matter as to which the Review Officer, in his sole, unfettered, and unreviewable discretion, determines such consultation or permission is inadvisable. In no circumstances will the failure or declination of the Review Officer to consult with the District Council as to any matter be deemed a violation or breach of this Stipulation and Order.

- ii. **Benefit Funds:** In exercising his powers and responsibilities as described in this Stipulation and Order, the Review Officer, to the maximum extent practicable, should consult with the Benefit Funds prior to taking any action with respect to the Benefit Funds, and permit the Benefit Funds to act on their own in the first instance to effectuate the terms and objectives of this Stipulation and Order. The Benefit Funds, in turn, should consult to the maximum extent practicable with the Review Officer as to what actions are advisable to effectuate the terms and objectives of this Stipulation and Order. However, with respect to any matter as to which the Review Officer has authority under this Stipulation and Order, the Review Officer need not consult with the Benefit Funds, or permit the Benefit Funds to act first, regarding any matter as to which the Review Officer, in his sole, unfettered, and unreviewable discretion, determines such consultation or permission is inadvisable. In no circumstances will the failure or declination of the Review Officer to consult with the Benefit Funds as to any matter be deemed a violation or breach of this Stipulation and Order.
- b. **Review and Oversight Authority.** The Review Officer is granted review and oversight authority with respect to the following matters and may, if necessary, prescribe exceptions and procedures under which such matters are to be presented to the Review Officer for review.
- i. With respect to the District Council:
 - (1) The Review Officer must be given prior notice of, and is granted the authority to review, all expenditures and investments.
 - (2) The Review Officer must be given prior notice of, and is granted the authority to review, all contracts or proposed contracts on behalf of the District Council (except for collective bargaining agreements).
 - (3) The Review Officer is granted the authority to review the persons currently holding office or employment, and must be given prior notice of, and is granted the authority to review, all proposed appointments to office or

employment. This provision does not govern the election of District Council officers, as provided for in paragraph 5.k of this Stipulation and Order.

- (4) The Review Officer must be given prior notice of, and is granted the authority to review, all proposed changes to the by-laws, and any other rules, policies, or practices.

ii. With respect to the Benefit Funds:

- (1) The Review Officer is granted the authority to review all expenditures and investments.
- (2) The Review Officer is granted the authority to review all contracts.
- (3) The Review Officer is granted the authority to review the persons currently holding office or employment, including Benefit Fund trustees, and all proposed appointments to office or employment, including Benefit Fund trustees.
- (4) The Review Officer is granted the authority to review all changes to the Benefit Funds trust agreements, and any other rules, policies, or practices.

iii. Upon reviewing any matter described in paragraphs 5.b.i and 5.b.ii, the Review Officer may determine that the matter reviewed (a) constitutes or furthers an act of racketeering as defined in 18 U.S.C. § 1961; or (b) furthers or contributes to the association, directly or indirectly, of any member, employee, officer, trustee, or representative of the District Council or the Benefit Funds with any barred person; or (c) is contrary to or violates any law or Court order entered in this case; or (d) is contrary to any fiduciary responsibility imposed by 29 U.S.C. § 501 or the Employee Retirement Income Security Act, 29 U.S.C. §§ 1001 et seq. ("ERISA"); or (e) is inconsistent with the objectives of this Stipulation and Order. Upon such a determination in the case of the District Council, the Review Officer may veto or require the District Council to rescind its action, proposed action, or lack of action. Upon such a determination in the case of the Benefit Funds, the Review Officer must give written notice to the Benefit Funds that the action, proposed action, or lack of action presents a reasonable basis to believe that the matter meets one of the conditions specified in this paragraph 5.b.iii.(a)–(e), but the absence of such notice may not be construed to establish a presumption that such conditions are not present.

- c. **Access to Information.** The Review Officer is granted the authority to take such reasonable steps that are lawful and necessary in order to be fully informed about the activities of the District Council and the Benefit Funds. Specifically, to discharge the duties and responsibilities set forth in this Stipulation and Order, the Review Officer must have access to information as follows:

- i. The Review Officer is granted the right to attend all meetings of the District Council, any governing body or committee of the District Council, the District Council membership, the trustees of the Benefit Funds, or any governing body or committee of the Benefit Funds. The District Council and the Benefit Funds must provide the Review Officer with reasonable advance notice of all of their respective meetings. The Review Officer's right to attend meetings of the trustees of the Benefit Funds does not extend to caucuses held by either employer trustees or union trustees, without permission of such trustees.
 - ii. The Review Officer is granted complete and unfettered access to, and the right to make copies of, all books, records, accounts, correspondence, files and other documents of the District Council and the Benefit Funds, including, without limitation, all books, records, accounts, correspondence, files, and other documents that are in the possession or control of third parties.
 - iii. The Review Officer is granted the right to compel audits and accountings of the assets of the District Council. The Review Officer is granted the right to request that the Benefit Funds' trustees conduct audits and accountings of the assets of the Benefit Funds; the Benefit Funds may object to such a request, in which case the Review Officer or the Government may petition the Court to compel the audit or accounting, and the Benefit Funds will be given notice and an opportunity to be heard regarding such petition.
 - iv. Except as he determines it necessary in good faith in connection with his responsibilities under this Stipulation and Order, the Review Officer will make all reasonable efforts to preserve the confidentiality, if any, of information and documents to which he has access.
- d. **Investigative Powers.** The Review Officer is granted the following investigative powers:
- i. The Review Officer is granted the right to interview, and to take and compel the sworn statement or sworn in-person oral deposition of any officer, agent, representative, employee, trustee, or member of the District Council or the Benefit Funds concerning any matter within the Review Officer's authority under this Stipulation and Order, provided that the person to be examined receives reasonable advance notice of the deposition, and may be represented by legal counsel of his or her choice. Nothing herein restricts the ability of the Benefit Funds or the District Council to provide counsel to any person if the Benefit Funds or the District Council chooses to do so.
 - ii. The Review Officer is granted the right, with authorization of the Court, to issue subpoenas for testimony or documents from any person or entity. Application to the Court for authorization to issue a subpoena must be made on notice to the Government. Notice must also be provided to the District Council or Benefit Funds, as applicable, unless the Review Officer determines that such notice

would be prejudicial to his investigation, in which case the Review Officer must provide the Court and the Government with justification for issuing the subpoena without such notice.

- iii. Nothing in this Stipulation and Order diminishes in any way the Review Officer's authority to take any other lawful action to be fully informed about the activities of the District Council and the Benefit Funds and other persons or entities who are compensated for services rendered to the District Council or the Benefit Funds as such activities relate to the District Council or the Benefit Funds, respectively, whenever those activities occurred.
- e. **Referral of Matters to the Review Officer.**
- i. Representatives, officers, and employees of the District Council, or employees of the Benefit Funds, must promptly report to the Review Officer (1) any known or suspected violations of the Consent Decree, including any known or suspected violations of the Job Referral Rules; (2) any known or suspected violations of local, state, or federal law (not including labor law or ERISA, as provided for in the next clause) related to the activities of the District Council or the Benefit Funds or the employment of District Council members; (3) any known or suspected criminal violations of labor law or ERISA by any person associated with the District Council or the Benefit Funds, including employers of District Council members; (4) any known or suspected violations of any Court orders entered in this case; and (5) any known or suspected violations of any District Council collective bargaining agreement pertaining to payment of wages or benefits or the union security clause. Nothing in this paragraph imposes an affirmative obligation on any person to learn the contents of any law, court order, consent decree, or collective bargaining agreement.
 - ii. The District Council or the Benefit Funds may also elect to refer any other matter to the Review Officer. In all cases where the District Council refers a matter to the Review Officer, the Review Officer, at his election, may accept the matter for investigation or may decline to investigate. In the event the Review Officer informs the District Council that he will investigate a matter, the District Council must take no action with respect to the matter unless authorized to do so by the Review Officer. If the Review Officer declines the matter for investigation, the District Council can investigate if it so chooses. In all cases where the Benefit Funds refers a matter to the Review Officer, the Review Officer, at his election, may accept the matter for investigation or may decline to investigate. In the event the Review Officer accepts the matter for investigation, the Benefit Funds will also notify the Review Officer whether the Benefit Funds will take action with respect to the matter and, if the Benefit Funds elect to take action, the nature of the action the Benefit Funds propose to take. In the event the Review Officer disagrees with the Benefit Funds' decision concerning whether to take action, or disagrees with the nature of any action the Benefit Funds propose to take, the Review Officer may petition the Court for relief, and

the Benefit Funds will be given notice and an opportunity to be heard regarding such petition. If the Review Officer declines the matter for investigation, the Benefit Funds can investigate it if they so choose.

- f. **Disciplinary Authority.** The Review Officer is granted the responsibility and authority to ensure that the District Council develops, implements, and maintains fair and effective procedures to discipline officers, employees, agents, representatives, or members of the District Council and its constituent locals for misconduct. "Misconduct" as used herein includes, without limitation, any violation of federal, state, or local law; any violation of union rules, by-laws, or constitutional provisions; any violation of the Consent Decree or another order of this or any other court; or any act that furthers the direct or indirect influence of organized crime or the threat of such influence now or in the future.
- i. Within 30 days of the entry of this Stipulation and Order, the District Council must propose disciplinary procedures to the Review Officer. Such procedures to be proposed must provide for an adjudicatory body to determine whether charges of misconduct have been established and, if so, what punishment or remedy should be imposed on the person who has committed misconduct; for an officer to present charges of misconduct to the adjudicatory body; and for any other procedure the Review Officer specifies to the District Council. If the Review Officer disapproves the procedures, the District Council must revise them by a date determined by the Review Officer to address the Review Officer's objections. Once the Review Officer approves the procedures proposed by the District Council (as revised if necessary), those procedures will take effect as soon as the Review Officer determines is practicable.
 - ii. In the event the Review Officer disapproves the procedures proposed by the District Council, and the District Council fails to revise the procedures to address the Review Officer's objections within 60 days of the entry of this Stipulation and Order, the Review Officer may unilaterally implement disciplinary procedures. Within 30 days of the Review Officer's unilateral implementation of disciplinary procedures, the District Council may petition the Court to review the Review Officer's disciplinary procedures. Any such petition will be adjudicated under the same standard of review applicable to review of final agency action under the Administrative Procedure Act, 5 U.S.C. §§ 701 et seq.
 - iii. The disciplinary procedures described above must provide for the Review Officer to be able to initiate disciplinary proceedings in a manner that is satisfactory to the Review Officer.
 - iv. The Review Officer must assess the operation of the disciplinary process, once it has been established in accordance with paragraphs 5.f.i and 5.f.ii of this Stipulation and Order, to determine if it is fair and effective. Within one year of the entry of this Stipulation and Order, the Review Officer must report in

writing to the Court on the operation of the disciplinary system, and such report must be served upon the Government and the District Council.

- v. At any time, if the Review Officer determines, in his sole and unreviewable discretion, that the disciplinary process as it is being conducted by the District Council is not fair or effective, the Review Officer may require the District Council to make whatever changes the Review Officer determines are necessary. Such changes may, if the Review Officer deems it necessary, include the appointment of an independent adjudicator or independent officer responsible for presenting disciplinary charges. The District Council, the Review Officer, and the Government will negotiate in good faith to appoint such persons and determine reasonable costs for their service, such costs to be borne by the District Council.

- g. **Litigation Authority.** The Review Officer is granted the right to authorize the initiation of civil actions on behalf of the District Council to recover damages incurred by the District Council arising from any actions within the Review Officer's authority under this Stipulation and Order. That litigation authority may extend to any civil action that could be timely filed on behalf of the District Council. Notwithstanding paragraph 4 of this Stipulation and Order, the Review Officer must consult with appropriate officials of the District Council before any such litigation is initiated, and must periodically report to the District Council on the progress of the litigation.

- h. **Assessments, Changes, and Recommendations.** Consistent with the provisions of paragraph 5.a:
 - i. The Review Officer may develop and mandate educational and training programs and standards for all officers, employees, and representatives of the District Council, including but not limited to business managers, business agents, business representatives, shop stewards, field representatives, delegates, and organizers.

 - ii. The Review Officer must conduct an assessment of the overall functioning and effectiveness of the Job Referral Rules, including without limitation whether they effectively further the objectives of the Consent Decree. The Review Officer must issue a report to the Court, the Government, and the District Council setting forth the findings of his assessment of the Job Referral Rules and his recommendations.

 - iii. The Review Officer must conduct an assessment of the functioning and effectiveness of the electoral process governing elections of the District Council Executive Board, delegate body, and any other elected office. This assessment should include, without limitation, the Review Officer's assessment of which District Council officers and representatives should be elected directly by the District Council's members, elected by the District Council's delegate body, or

appointed by the District Council, consistent with governing law and the terms and objectives of this Stipulation and Order and the Consent Decree. The assessment should also include the Review Officer's assessment of the District Council's governing structure, including whether any offices should be eliminated or created and what powers the holders of those offices should have. The Review Officer must issue a report to the Court, the Government, and the District Council setting forth his findings and recommendations.

- iv. The Review Officer must conduct an assessment of the District Council's constituent locals. The assessment should include, without limitation, an assessment of the division of the District Council into constituent local unions, whether that structure positively or negatively affects the achievement of the objectives of the Consent Decree and this Stipulation and Order, and whether a different structure would more effectively further those objectives. The Review Officer must issue a report to the Court, the Government, and the District Council setting forth his findings and recommendations.
- v. The Review Officer must review and assess the Benefit Funds' procedures and policies concerning the collection of employer and employee contributions to the Benefit Funds pursuant to applicable collective bargaining agreements. The Review Officer must issue a report to the Court, the Government, the District Council, and the Benefit Funds setting forth his findings and recommendations.
- vi. The Review Officer should also review and assess the allocation of contributions to the Benefit Funds by employers and District Council members, and whether those allocations positively or negatively affect the achievement of the objectives of this Stipulation and Order, and whether a different allocation would more effectively further those objectives. The Review Officer must issue a report to the Court, the Government, and the District Council setting forth his findings and recommendations.
- vii. The Review Officer may study and make recommendations concerning the interaction between District Council and Benefit Funds operations.
- viii. The Review Officer may study and make recommendations concerning any other factors, practices, and procedures that will effectively prevent, deter, detect, and address wrongdoing and corruption by or related to the District Council, its members, and the Benefit Funds.
- ix. With respect to any of the reporting obligations set out in this paragraph 5.h, the Review Officer must, within 30 days of the entry of this Stipulation and Order, provide the Court, the Government, the District Council, and the Benefit Funds with a timetable specifying when each of these reports is to be issued, providing that at least one report will be issued every six months.

- x. **Implementation:**
- (1) With respect to any recommendations the Review Officer makes concerning the District Council under this paragraph 5.h, the Review Officer must apprise the Government and the District Council of any such recommendations. The Review Officer may, in consultation with and with the consent of the Government and the District Council, implement such recommendations. In the event the District Council does not consent to implementation of the Review Officer's recommendations as required by the prior sentence, the Review Officer may petition the Court to require the District Council to implement the changes the Review Officer deems appropriate, and the Government and the District Council will be given notice and an opportunity to be heard regarding such petition, provided that the Review Officer may not petition the Court to implement changes described in paragraph 5.h.iv above.
 - (2) With respect to any recommendations the Review Officer makes concerning the Benefit Funds under this paragraph 5.h, if the Benefit Funds' trustees do not implement the recommendations, the Review Officer may petition the Court to require the Benefit Funds to implement the changes recommended by the Review Officer, and the Government and the Benefit Funds will be given notice and an opportunity to be heard regarding such petition.
- i. **Communication with the Membership.** The Review Officer may distribute to the District Council membership written reports describing the activities of the Review Officer or any other information he deems advisable. The Review Officer may determine in his discretion when to publish such reports, and must be given access to any District Council publication that concerns the affairs of the union, including *The Carpenter* or any other newsletter, and any District Council web site, e-mail address list, or other means of electronic communication, to communicate with the membership. The Review Officer may also communicate to the membership in person, at meetings or otherwise.
- j. **Job Referral Rules.** The Review Officer must supervise the implementation and operation of the Job Referral Rules, including implementation and operation of any stipulated or Court-approved changes to the Job Referral Rules. If the Review Officer determines that there has been a violation of the Job Referral Rules, the Review Officer may issue any direction to the District Council as may be appropriate to remedy the violation.
- k. **Supervision and Conduct of Elections.**
- i. The Review Officer is empowered to supervise all phases of any union election conducted by the District Council during his tenure, and to certify the results of any such election. The term "supervise" as used herein has the meaning

ascribed to it in cases arising under Title IV of the Labor-Management Reporting and Disclosure Act, 29 U.S.C. §§ 481 et seq.

- ii. The Review Officer must propose rules and procedures for the conduct of elections no later than 120 days before the first election during his tenure is to occur. The rules must set out procedures for nomination of candidates, dissemination of information about nominated candidates to the membership at union expense, and the conduct of the final secret-ballot election. The rules must seek to ensure that those eligible members who reside outside of the New York metropolitan area are able to vote. Draft rules will be disseminated to the membership, by means deemed appropriate by the Review Officer, for comment. The Review Officer must consider any such comments, then promulgate the final rules for the election by submitting an application to this Court. When approved by the Court, the final rules will be incorporated into, and made a part of, the By-Laws of the District Council.
 - iii. The Review Officer is granted the authority to prescribe threshold qualifications—consistent with section 401 of the Labor-Management Reporting and Disclosure Act, 29 U.S.C. § 481, and 29 C.F.R. §§ 452.32 et seq.—for any candidate seeking a position as an officer of the District Council, provided that the Review Officer may not remove any qualification for office prescribed by the UBC Constitution as of the date of this Stipulation and Order.
 - iv. Any candidate seeking to run for a position as an officer of the District Council during the Review Officer's tenure must first be approved by the Review Officer, who will determine whether in light of the terms and objectives of the Consent Decree the candidate is qualified to run for office and represent the union membership. Any such decision by the Review Officer will be final and non-reviewable.
- l. Retention of Records.** No later than 60 days after entry of this Stipulation and Order, the District Council and the Benefit Funds must provide the Review Officer with a comprehensive records retention schedule applicable to all records of the District Council and the Benefit Funds, respectively. Upon the Review Officer's request, the District Council and the Benefit Funds must notify the Review Officer prior to the destruction of any specified record or category of records described in the records retention schedule. In addition, the District Council and the Benefit Funds must not destroy any records or documents of any kind prior to 90 days from the entry of this Stipulation and Order, except with the written approval of the Review Officer.
- m. Reports to the Court.**
- i. The Review Officer may report to the Court whenever the Review Officer deems fit but, in any event, must file a written report not less than every six months regarding the Review Officer's activities. Copies of all reports to the Court must be timely served on the Government and on the District Council and

the Benefit Funds. At least once each year, the Review Officer's reports as described in this paragraph 5.m must include the Review Officer's assessment of progress toward achieving the objectives of this Stipulation and Order, and the Review Officer's recommendations for going forward.

- ii. The Review Officer's reports as described in this paragraph 5.m and elsewhere in this Stipulation and Order should be filed on the public docket in the above-captioned case, unless the Review Officer determines that public filing will be prejudicial to an investigation or to the Review Officer's activities pursuant to this Stipulation and Order. If the Review Officer so determines, the Review Officer (a) must file the report under seal, but must file as much of the report on the public docket as possible without causing the identified prejudice; (b) must provide the Court, the Government, the District Council, and the Benefit Funds with a justification for the sealed filing, which may also be filed under seal if necessary to avoid the identified prejudice; and (c) must, no less often than once a year, review the sealed report to determine if the seal is still necessary, and either publicly file the report if the seal is not still necessary or provide notice to the Court, the Government, the District Council, and the Benefit Funds of the justification for continuing the seal. The Government, the District Council, the Benefit Funds, or any person aggrieved by the sealing or continued sealing of a report may petition the Court to unseal the report, and the Court may unseal the report in whole or in part upon a determination that the interest in unsealing the report outweighs the justification for sealing it.
 - iii. Neither the reporting obligation in this paragraph 5.m nor any other reporting obligation in this Stipulation and Order precludes the Review Officer from offering, or the Government, the Court, the District Council, or the Benefit Funds from soliciting, the Review Officer's interim advice or opinion on any matter.
6. **Independent Investigator; Toll-Free Hotline.** The office of Independent Investigator, as established by the December 2002 Stipulation and Order and the August 2005 Order, is eliminated, subject to the following provisions.
- a. Unitel, currently serving in the office of Independent Investigator, will continue to hold office for a transition period of 30 days after the entry of this order. Unitel is directed to brief the Review Officer on the operations conducted by the Independent Investigator, including the telephone hotline; advise the Review Officer of the status and pendency of any investigations or inquiries the Independent Investigator has been conducting; make recommendations to the Review Officer with respect to leads to be followed, complaints to be investigated, and further actions to be taken in order for the Review Officer to effectively discharge the responsibilities of his office; and, in consultation with the Review Officer, otherwise assist the Review Officer in effecting the transition of the Independent Investigator's duties to the Review Officer. The thirty-day transition period may be extended if the Review Officer and Independent

Investigator agree that an extension is necessary for an effective and orderly transition.

- b. The toll-free telephone hotline described in paragraph 2.e of the August 2005 Order will continue as provided in that order, and will be operated by the Review Officer in place of the Independent Investigator to solicit and receive allegations of wrongdoing or corruption by any person in connection with the operations of the District Council or the Benefit Funds. Paragraph 2.e of the August 2005 Order remains in effect, except that the Review Officer is substituted for the Independent Investigator, and to the extent that paragraph refers to the scope of the Independent Investigator's investigative authority, the provisions are amended to incorporate the scope of the Review Officer's investigative authority as provided in the present Stipulation and Order. The operation of the hotline will be transferred from the Independent Investigator to the Review Officer as soon as possible during the transition period described in paragraph 6.a above.
 - c. The District Council is directed to pay Unitel a reasonable amount in compensation for services reasonably rendered to ensure an orderly and effective transition, as described in this paragraph. The District Council and Unitel are directed to attempt in mutual good faith to agree upon the amount of compensation required. Any disputes will be resolved by the Court upon the written application of the District Council, Unitel, or the Government.
 - d. During the transition period and thereafter, the Review Officer is to have full and complete access to all records and documents of the Independent Investigator, in whatever form, concerning or relating to the District Council, and the functions and duties performed by the Independent Investigator.
 - e. Except as specifically described in this paragraph 6, the provisions of the December 2002 Stipulation and Order and the August 2005 Order remain in effect as modified by subsequent orders of the Court.
7. **Cooperation.** The District Council and the Benefit Funds, including all officers, employees, trustees, and members, must cooperate with the Review Officer in any matter undertaken by the Review Officer pursuant to this Stipulation and Order. Failure to cooperate with the Review Officer is expressly made a violation of this Stipulation and Order.
8. **Compensation, Term, and Hiring Authority.**
- a. **Hiring.** The Review Officer may employ or engage the services of any personnel necessary to assist in the proper discharge of the Review Officer's duties. The Review Officer is also granted the authority to designate persons of his choosing to act on his behalf in performing any of his duties as outlined in this Stipulation and Order.

b. Compensation and Expenses.

- i. The compensation and expenses of the Review Officer, and of all persons hired under his authority except as specified in paragraph 8.b.ii, must be paid by the District Council. The parties agree that the Review Officer's expenses will typically be between \$65,000 and \$85,000 per month for the total cost of the Review Officer's activities, but that the actual cost may be less or more in any particular month.
- ii. In addition to the expenses specified in paragraph 8.b.i, the Review Officer may employ or engage the services of additional investigators. The parties agree that the cost of each such investigator will typically be between \$70,000 and \$90,000 per year, but that the actual cost may be less or more. These expenses will be paid by the District Council, or by the New York City and Vicinity Carpenters Labor-Management Corporation if that entity agrees to do so.
- iii. To effectuate this provision, the District Council must deposit \$75,000 within five days of the entry of this Stipulation and Order with the Review Officer. The deposit will be kept by the Review Officer, who may draw on it in the event the District Council is delinquent on making the payments described below. If the Review Officer draws on the deposit, the District Council must replenish the deposit by the amount the Review Officer drew from the deposit. At the end of the Review Officer's tenure, the balance remaining on deposit with the Review Officer will be returned to the District Council.
- iv. The Review Officer will provide monthly statements to the District Council and the Government setting forth an accounting of all claimed compensation and expenses, including time and activity records or other appropriate supporting materials. The District Council must pay the Review Officer the total amount specified in the monthly statement within twenty days. Notwithstanding the division of expenses described in paragraph 8.b.ii above, failure to timely pay the amount specified in the Review Officer's monthly statement is a breach of this Stipulation and Order by the District Council and may be punishable as contempt of court.
- v. Within 30 days of the Review Officer's submission of his monthly statement, the District Council may challenge the amount specified in the statement, or any expenses detailed in that statement, by filing a written objection with the Court. Such an objection, however, does not relieve the District Council of its obligation to pay the monthly statement within the time specified in paragraph 8.b.iv. If the District Council is successful in its challenge, it will be entitled to a credit in the amount by which the compensation and expenses are reduced by the Court.

- c. **Term of Review Officer.** The authority of the Review Officer will extend for 30 months from the entry of this Stipulation and Order by the Court. The Review Officer may continue and complete any disciplinary and review matters initiated before the termination of his term, but either the District Council or the Benefit Funds may petition the Court to terminate the Review Officer's authority to complete any such matter upon a showing that the Review Officer has been dilatory in performing his duties during his term, or is taking an unreasonable amount of time to complete the matter at issue.
 - i. Upon consent of the District Council, the Benefit Funds, the Government, and the Review Officer, the Court may extend the term of the Review Officer for any period. If the Government, the Review Officer, and either the District Council or the Benefit Funds agree to such an extension, the Court may extend the term of the Review Officer as applicable to the consenting party.
 - ii. The Review Officer may apply to the Court to extend or reduce the length of his term, by six months or less, upon a showing of good cause and upon notice to the Government, the District Council, and the Benefit Funds.
 - iii. The District Council, the Benefit Funds, or the Government may petition the Court, on notice to the parties and the Review Officer, to dismiss the Review Officer for commission of an illegal act by the Review Officer or by an employee of the Review Officer with the Review Officer's knowledge and approval, for inadequate or unreasonable performance of the duties and responsibilities provided for in this Stipulation and Order, or for any other good cause found by the Court. If the Review Officer is dismissed upon such a petition, or otherwise fails to complete his term of office, the Government, the District Council, and the Benefit Funds must promptly meet to discuss the appointment of a replacement Review Officer. In the event the parties are unable to agree, the Government must promptly submit a list of replacement candidates to the Court; the District Council must also submit a list of replacement candidates; the Benefit Funds will have the opportunity to be heard on the lists of proposed replacement candidates; and the Court must promptly select the candidate from the lists submitted to the Court who is best qualified to further the objectives of the Consent Decree and this Stipulation and Order.
9. **Indemnification.** The District Council must indemnify out of its own funds the Review Officer and any persons hired by or acting on behalf of the Review Officer from personal liability (and any costs incurred to defend against any claim of liability) for any of their actions taken pursuant to Stipulation and Order. In addition, the Review Officer and any persons designated or hired by the Review Officer to act under this Stipulation and Order are to be entitled to whatever privileges and immunities from personal liability that may exist under the law for court-appointed officers.

10. **Modification of this Stipulation and Order.**

- a. **Petition for Modification.** The parties acknowledge that this Stipulation and Order is entered while the proceedings in *United States v. Forde*, 08 Cr. 828 (S.D.N.Y.), have not yet been completed, and that further investigations by the Government may result in the need for additional relief. Accordingly, the Government may apply to the Court to modify this Stipulation and Order upon a showing that the requested modification is warranted to further the objectives of the Consent Decree and this Stipulation and Order.

- b. **Establishment of Labor-Management Committee.** The District Council contemplates the creation, in cooperation with and with the consent of certain union employers, of a permanent labor-management committee pursuant to 29 U.S.C. § 186(c)(9), or the modification of an existing labor-management committee, for the purpose of implementing anti-corruption and anti-racketeering measures for the benefit of the District Council, its members, and employers of District Council members. At whatever time it is prepared to do so, the District Council will consult with the Review Officer about the formation of such a labor-management committee, then present its proposal for such a labor-management committee to the Review Officer. The Review Officer will then recommend to the Government whether the District Council's proposal should be adopted. The Government and the District Council will then attempt in good faith to agree on the establishment of such a labor-management committee. If such a committee is established by the District Council and consenting employers, the Government, the District Council, and the Benefit Funds will attempt in good faith to agree on whether modification of any provision of this Stipulation and Order is appropriate, including without limitation whether the Review Officer should be compensated by the labor-management committee rather than the District Council; whether the term of the Review Officer should be changed; or whether a permanent position should be created within the labor-management committee whose officeholder should be granted some or all of the authority given to the Review Officer by this Stipulation and Order. This paragraph 10.b may not be construed to require any employer to consent to the creation of a labor-management committee or the modification of an existing labor-management committee.

11. **Judicial Review.** The Review Officer's decisions with respect to the District Council pursuant to paragraph 5.b of this Stipulation and Order, and the certification of election results pursuant to paragraph 5.k.i of this Stipulation and Order, may be reviewed by the Court upon a petition for review by the District Council, the Government, or any aggrieved person. Any such petition must be filed within 30 days of the Review Officer's decision for which review is sought, and in reviewing the Review Officer's decision the Court will apply the same standard of review applicable to review of final agency action under the Administrative Procedure Act, 5 U.S.C. §§ 701 et seq. In the absence of a timely petition for review, the decision of the Review Officer will become final and unreviewable. All other decisions of the Review Officer are final and unreviewable except as expressly provided in this Stipulation and Order. Nothing in this paragraph or this Stipulation and Order precludes the District Council, the Benefit Funds, the Government, or any aggrieved

person from petitioning the Court on the ground that the Review Officer has exceeded his authority under this Stipulation and Order.

12. **Miscellaneous Provisions**

- a. **Authority of UBC Trustee.** The parties agree and acknowledge that according to the UBC Constitution and Laws and pursuant to Title III of the Labor-Management Reporting and Disclosure Act, 29 U.S.C. §§ 461 et seq., the UBC Trustee has been granted full supervisory authority over the District Council; has been granted the power to assume and exercise full and complete authority over the conduct of the District Council's affairs; and that such powers are now in effect and will continue during the term of the UBC trusteeship. Accordingly, the parties agree and acknowledge that by executing this Stipulation and Order, the UBC Trustee has authority to act on behalf of the District Council, consents to the relief contained in this Stipulation and Order on behalf of the District Council, and so binds the District Council and its members to the terms and conditions of this Stipulation and Order.
- b. **Amendment of By-Laws.** The By-Laws of the District Council are hereby amended as necessary to conform with all of the terms of this Stipulation and Order. Within six months of the entry of this Stipulation and Order, the District Council must submit to the Review Officer amended By-Laws that are consistent with the changes made by this Stipulation and Order and any other changes made since the last publication of the By-Laws, and will publish the amended By-Laws upon the Review Officer's approval.
- c. **Conflict with this Stipulation and Order.** To the extent this Stipulation and Order conflicts with any current or future rights, privileges or rules applicable to the District Council or its membership or the Benefit Funds, the District Council, as the representative of its membership, and the Benefit Funds hereby waive compliance with any such right, privilege or rule and agree that they and the District Council's membership will act in accordance with this Stipulation and Order.
- d. **Privilege.** Neither the District Council nor the Benefit Funds waives any right they may have to invoke any applicable privilege or work-product protection prior to production of any information to the Review Officer, but must, upon request of the Review Officer, comply with Fed. R. Civ. P. 26(b)(5)(A) and this Court's Local Civil Rule 26.2. Production of information to the Review Officer is not to be deemed a waiver of any applicable privilege or work-product protection, pursuant to Fed. R. Evid. 502(d). Additionally, the District Council and the Benefit Funds agree to the Review Officer's review and use of information provided to him in furtherance of their common interest in achieving the objectives of this Stipulation and Order, and accordingly the production of information to the Review Officer is not to be deemed a waiver of applicable privilege or work-product protection. Upon a claim of privilege or work-product protection, whether before or after the Review Officer is given access to information, the Review Officer, the District Council, the Benefit Funds, or

the Government may petition the Court to determine the applicability and scope of the privilege or work-product protection.

- e. **HIPAA.** Disclosure of any information covered by the protections of the Health Insurance Portability and Accountability Act of 1996 but otherwise required by this Stipulation and Order is hereby ordered by the Court, pursuant to 45 C.F.R. § 164.512(e)(1)(i).
- f. **Other Government Action.** Nothing herein precludes the Government, or any of its departments or agencies, from taking any appropriate action in regard to the District Council or the Benefit Funds pursuant to the Consent Decree or this Stipulation and Order, as applicable, or in reliance on any federal laws, including any criminal investigation or prosecution, and any action under the federal tax laws.
- g. **Retention of Jurisdiction.** This Court retains exclusive jurisdiction to supervise implementation of this Stipulation and Order and retains exclusive jurisdiction to decide any and all issues arising under this Stipulation and Order, and any and all disputes growing out of the issuance, interpretation, or application of this Stipulation and Order. The Review Officer or any party to this Stipulation and Order may apply to the Court for any orders necessary or appropriate to implement the Consent Decree and this Stipulation and Order, including orders preventing non-parties from interfering with the implementation of the Consent Decree or this Stipulation and Order. The Review Officer will have the right to intervene in any matter or proceeding concerning this Stipulation and Order.
- h. **Status of Consent Decree and Other Orders.** The entry of this Stipulation and Order does not supersede or affect the Consent Decree or the rights and obligations of the parties under the Consent Decree or subsequent orders of the Court. Except as specified herein, the entry of this Stipulation and Order does not supersede or affect any other Order that the Court has entered in this case.
- i. **All Writs Act.** The Government or the Review Officer may apply to this Court at any time pursuant to the All Writs Act, 28 U.S.C. § 1651(a), for relief as against non-parties to the Consent Decree or this Stipulation and Order, including employers of members of the District Council, and any other non-party who may be in a position to interfere with the implementation of the Consent Decree or this Stipulation and Order. Upon such application, the Court may grant such relief as may be necessary or appropriate to prevent the frustration of the Consent Decree and this Stipulation and Order. The Government or the Review Officer may apply to the Court for the issuance of subpoenas necessary to obtain any information, documents, or testimony relevant to such an application.
- j. **Attorney's Fees and Costs.** The entry of this Stipulation and Order is without attorney's fees or costs to any party.

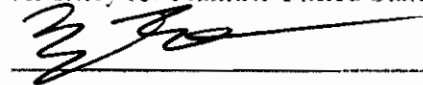
- k. **Counterpart Signatures.** This Stipulation may be executed in two or more counterparts, each of which is to be deemed an original, but all of which together constitute the same instrument.

CONSENTED AND AGREED TO:

Dated: New York, New York
April 30, 2010

PREET BHARARA
United States Attorney for the
Southern District of New York
Attorney for Plaintiff United States

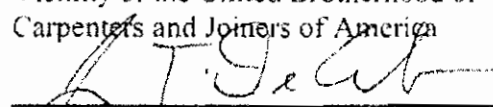
By:


 BENJAMIN H. TORRANCE
 TARA M. La MORTE
 Assistant United States Attorneys
 86 Chambers Street
 New York, New York 10007
 Telephone: 212.637.2703, .2746
 Fax: 212.637.2702
 E-mail: benjamin.torrance@usdoj.gov
 tara.lamorte2@usdoj.gov

Dated: Los Angeles, California
April 29, 2010

DeCARLO, CONNOR & SHANLEY
Attorney for Defendant
District Council of New York City and
Vicinity of the United Brotherhood of
Carpenters and Joiners of America

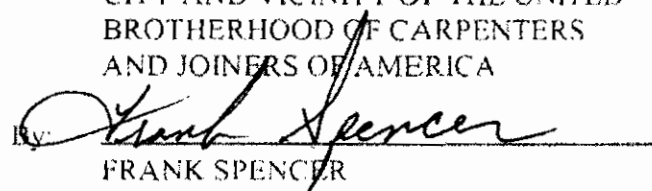
By:


 JOHN T. DeCARLO
 533 South Fremont Avenue, 9th floor
 Los Angeles, California 90071
 Telephone: 213.488.4100
 Fax: 213.488.4180
 E-mail: jdecarlo@deconsel.com

Dated: New York, New York
April 30, 2010

DISTRICT COUNCIL OF NEW YORK
CITY AND VICINITY OF THE UNITED
BROTHERHOOD OF CARPENTERS
AND JOINERS OF AMERICA

By:


 FRANK SPENCER
 Trustee

k. **Counterpart Signatures.** This Stipulation may be executed in two or more counterparts, each of which is to be deemed an original, but all of which together constitute the same instrument.

CONSENTED AND AGREED TO:

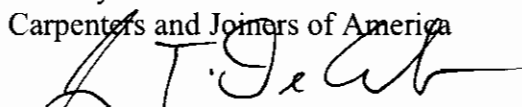
Dated: New York, New York
April ____, 2010

PREET BHARARA
United States Attorney for the
Southern District of New York
Attorney for Plaintiff United States

By: _____
BENJAMIN H. TORRANCE
TARA M. La MORTE
Assistant United States Attorneys
86 Chambers Street
New York, New York 10007
Telephone: 212.637.2703, .2746
Fax: 212.637.2702
E-mail: benjamin.torrance@usdoj.gov
tara.lamorte2@usdoj.gov

Dated: Los Angeles, California
April 29, 2010

DeCARLO, CONNOR & SHANLEY
Attorney for Defendant
District Council of New York City and
Vicinity of the United Brotherhood of
Carpenters and Joiners of America

By: 

JOHN T. DeCARLO
533 South Fremont Avenue, 9th floor
Los Angeles, California 90071
Telephone: 213.488.4100
Fax: 213.488.4180
E-mail: jdecarlo@deconsel.com

Dated: New York, New York
April ____, 2010

DISTRICT COUNCIL OF NEW YORK
CITY AND VICINITY OF THE UNITED
BROTHERHOOD OF CARPENTERS
AND JOINERS OF AMERICA

By: _____
FRANK SPENCER
Trustee

- k. **Counterpart Signatures.** This Stipulation may be executed in two or more counterparts, each of which is to be deemed an original, but all of which together constitute the same instrument.

CONSENTED AND AGREED TO:

Dated: New York, New York
April __, 2010

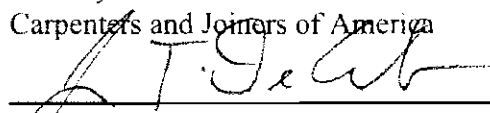
PREET BHARARA
United States Attorney for the
Southern District of New York
Attorney for Plaintiff United States

By: _____

BENJAMIN H. TORRANCE
TARA M. La MORTE
Assistant United States Attorneys
86 Chambers Street
New York, New York 10007
Telephone: 212.637.2703, .2746
Fax: 212.637.2702
E-mail: benjamin.torrance@usdoj.gov
tara.lamorte2@usdoj.gov

Dated: Los Angeles, California
April 29, 2010

DeCARLO, CONNOR & SHANLEY
Attorney for Defendant
District Council of New York City and
Vicinity of the United Brotherhood of
Carpenters and Joiners of America

By:  _____

JOHN T. DeCARLO
533 South Fremont Avenue, 9th floor
Los Angeles, California 90071
Telephone: 213.488.4100
Fax: 213.488.4180
E-mail: jdecarlo@deconsel.com

Dated: New York, New York
April 30, 2010

DISTRICT COUNCIL OF NEW YORK
CITY AND VICINITY OF THE UNITED
BROTHERHOOD OF CARPENTERS
AND JOINERS OF AMERICA

By:  _____

FRANK SPENCER
Trustee

Dated: New York, New York
April 29, 2010

SCHULTE ROTH & ZABEL LLP
Co-Counsel for Benefit Funds

By: Mark E. Brossman
MARK E. BROSSMAN
919 Third Avenue
New York, New York 10022
Telephone: 212.756.2050
Fax: 212.593.5955
E-mail: mark.brossman@srz.com

Dated: New York, New York
April __, 2010

O'DWYER & BERNSTIEN, LLP
Co-Counsel for Benefit Funds

By: _____
BRIAN O'DWYER
52 Duane Street
New York, New York 10007
Telephone: 212.571.7100
Fax: 212.385.7877
E-mail: bodwyer@odblaw.com

Dated: New York, New York
April 30, 2010

BENEFIT FUNDS

By: _____
FRANK SPENCER, Co-Chairman
Benefit Funds Union Trustee
By: Paul J. O'Brien
PAUL J. O'BRIEN, Co-Chairman
Benefit Funds Employer Trustee

SO ORDERED.

Dated: New York, New York
_____, 2010

CHARLES S. HAIGHT, JR., U.S.D.J.

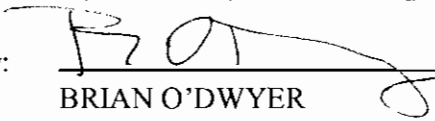
Dated: New York, New York
April __, 2010

SCHULTE ROTH & ZABEL LLP
Co-Counsel for Benefit Funds

By: _____
MARK E. BROSSMAN
919 Third Avenue
New York, New York 10022
Telephone: 212.756.2050
Fax: 212.593.5955
E-mail: mark.brossman@srz.com

Dated: New York, New York
April 29, 2010

O'DWYER & BERNSTIEN, LLP
Co-Counsel for Benefit Funds

By:  _____
BRIAN O'DWYER
52 Duane Street
New York, New York 10007
Telephone: 212.571.7100
Fax: 212.385.7877
E-mail: bodwycr@odblaw.com

Dated: New York, New York
April __, 2010

BENEFIT FUNDS

By: _____
FRANK SPENCER, Co-Chairman
Benefit Funds Union Trustee

By: _____
PAUL J. O'BRIEN, Co-Chairman
Benefit Funds Employer Trustee

SO ORDERED.

Dated: New York, New York
_____, 2010

CHARLES S. HAIGHT, JR., U.S.D.J.

Dated: New York, New York
April ___, 2010

SCHULTE ROTH & ZABEL LLP
Co-Counsel for Benefit Funds

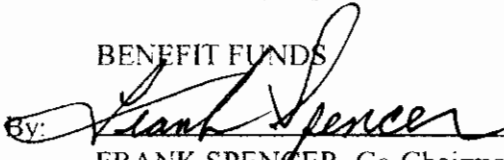
By: _____
MARK E. BROSSMAN
919 Third Avenue
New York, New York 10022
Telephone: 212.756.2050
Fax: 212.593.5955
E-mail: mark.brossman@srz.com

Dated: New York, New York
April ___, 2010

O'DWYER & BERNSTIEN, LLP
Co-Counsel for Benefit Funds

By: _____
BRIAN O'DWYER
52 Duane Street
New York, New York 10007
Telephone: 212.571.7100
Fax: 212.385.7877
E-mail: bodwyer@odblaw.com

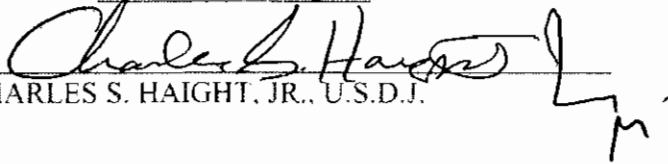
Dated: New York, New York
April 30, 2010

BENEFIT FUNDS
By: 
FRANK SPENCER, Co-Chairman
Benefit Funds Union Trustee

By: _____
PAUL J. O'BRIEN, Co-Chairman
Benefit Funds Employer Trustee

SO ORDERED.

Dated: New York, New York
June 2, 2010


CHARLES S. HAIGHT, JR., U.S.D.J.