

**SPECIAL REPORT**  
**OF THE**  
**WATERFRONT COMMISSION OF NEW YORK HARBOR**  
**TO**  
**THE GOVERNORS AND LEGISLATURES**  
**OF THE**  
**STATES OF NEW YORK AND NEW JERSEY**

**March 2012**



**DEDICATED TO PROFESSOR CLYDE SUMMERS**

**November 21, 1918 – October 30, 2010<sup>1</sup>**

***IN APPRECIATION OF HIS COMMITMENT TO THE AMERICAN WORKER, HIS LIFELONG FIGHT AGAINST CORRUPT RACKETEERS AND UNDEMOCRATIC UNION BOSSES, HIS PIVOTAL ROLE IN WRITING FEDERAL LAW THAT GUARANTEED DEMOCRATIC RIGHTS TO UNION MEMBERS, AND IN RECOGNITION OF HIS UNENDING COMMITMENT AND VALUABLE CONTRIBUTIONS TO UNION DEMOCRACY.***

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<sup>1</sup> Professor Summers passed away during the course of the Commission's public hearings.

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*To the Honorable Chris Christie, Governor, and the Legislature of the State of New Jersey  
and  
To the Honorable Andrew M. Cuomo, Governor, and Legislature of the State of New York:*

**PRELIMINARY STATEMENT**

Between October 14, 2010 and December 2, 2010, the Waterfront Commission of New York Harbor (“Commission”) conducted public hearings concerning unfair employment practices within the Port of New York District (“the Port” or “the Port of New York-New Jersey”).<sup>1</sup> The hearings demonstrated and publicized that certain hiring practices, achieved primarily through calculated provisions of collective bargaining agreements, illogical interpretations of other provisions, and claims of “custom and practice,” have created within the Port no/low-work, no/low-show positions generally characterized by outsized salaries. The privileged few that are given those jobs are overwhelmingly connected to organized crime figures or union leadership.

The hearings were held pursuant to the Commission’s statutory authority to investigate, collect and compile information concerning waterfront practices in the Port.<sup>2</sup> Over the course of six sessions, twenty-nine witnesses testified, seven hundred eighty-nine pages of testimony were taken and one hundred thirty-five exhibits were received into evidence. Commission attorneys interviewed over fifty other individuals, including Port employees and union officials, in preparation for the hearings. The hearings were attended by representatives of the International Longshoreman’s Association, AFL-CIO (“ILA”), maritime corporations, trade associations, government and law enforcement agencies, as well as reporters and other interested parties.

The following is a summary of the evidence and testimony, as well as the Commission’s findings and recommendations.

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<sup>1</sup> The Port of New York District, also known as the Port of New York-New Jersey, as defined by the Waterfront Commission Act, Part I, Article II, refers to the district created by Article II of the Compact dated April 30, 1921 between the States of New York and New Jersey.

<sup>2</sup> Waterfront Commission Act, Part I, Article IV, Section 11.

## SUMMARY OF EVIDENCE AND TESTIMONY

### I.

#### **The Work Relief Structure Promulgated Under Existing Collective Bargaining Agreements Breeds Waste and Favoritism and Detracts from the Competitiveness of the Port of New York-New Jersey**

##### **A. Summary of Current Collective Bargaining Agreements**

All unionized longshoreworkers are represented by the ILA for the purpose of collective bargaining.<sup>3</sup> The ILA negotiates a master collective bargaining agreement (“CBA”), covering the entire East Coast and Gulf Coast regions – from Maine to Texas – with an employer representative, the United States Maritime Alliance (“USMX”).<sup>4</sup> The USMX-ILA Master Agreement<sup>5</sup> addresses various issues, including but not limited to wages, workday provisions, jurisdiction, technology, healthcare and other benefits.<sup>6</sup> This master agreement is supplemented by a local agreement between another employer representative, the New York Shipping Association, Inc. (“NYSA”) and the ILA.<sup>7</sup> The NYSA-ILA CBA addresses staffing, start times, pensions, holidays, vacations, local work rules, and other benefits and issues not covered by the USMX-ILA Master Agreement.<sup>8</sup> Longshoreworkers who perform certain other services such as container maintenance and ship maintenance are covered by agreements between a third employer representative, the Metropolitan Marine Maintenance Contractors’ Association, Inc. (“MMMCA”), and the ILA (agreements collectively referred to as “MMMCA-ILA CBA”).<sup>9</sup>

As illustrated below, specific provisions in the various CBAs allow unfair hiring

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<sup>3</sup> A small subset of longshoreworkers, crane maintenance electricians, are represented by the Seafarers International Union (SIU).

<sup>4</sup> October 14, 2010, Tr. 15:10 to Tr. 16:2. [“Tr.” as used herein, refers to the stenographic transcript of the Commission’s public hearings].

<sup>5</sup> Commission Exhibit 1-F [“Commission Exhibit,” as used herein, refers to the exhibits marked into evidence at the the Commission’s public hearings. Exhibits 4-G, 5-S, 5-DD, 6D and 6E, depicting various individuals discussed herein, are attached hereto as “Attachment A” for reference].

<sup>6</sup> *Id.*

<sup>7</sup> Commission Exhibit 1-E.

<sup>8</sup> October 14, 2010, Tr. 15:10 to Tr. 16:16.

<sup>9</sup> Commission Exhibit 4-O.

practices to exist through illogical interpretations of those agreements and through claims of “custom and practice,” which often supplement or contravene the specific language of the CBAs.

### **B. The Work Relief Structure and “Gang” System**

The NYSA-ILA CBA work relief structure is primarily based upon two arrangements. The first is a work arrangement known as the “gang system.” A “gang” is a group of longshoreworkers hired collectively. The gang works as a unit, and there are minimum staffing requirements in the NYSA-ILA CBA with respect to how many individuals must comprise a working gang. For example, for container operations within the Port, a total of fifteen or sixteen workers must be hired: one foreman, three crane operators, five or six drivers (depending upon the equipment used) and six dock employees.<sup>10</sup>

The second policy codified in the NYSA-ILA CBA is the relief system itself. Essentially, out of the fifteen or sixteen individuals in a gang, only nine or ten are actually on the pier working.<sup>11</sup> Similar relief structures exist for other pieces of equipment, whether working with the gang or in the yard. NYSA President Joseph Curto explained that the rest of the workers are considered to be on a break.<sup>12</sup> Although they are not required to work, they are still paid as if they are working.<sup>13</sup> This means that forty-percent of the workers hired to work in a gang are not working, yet are being paid as if they are.<sup>14</sup> In the specific case of crane operators, the CBA requires that three workers be hired to operate one crane.<sup>15</sup> Mr. Curto testified that in reality, since only one worker can operate the crane, the two “relief” workers could be “just about any place.”<sup>16</sup> Essentially, this allows crane operators to be paid for twenty-four hours of

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<sup>10</sup> NYSA-ILA CBA, Article 7, Section 1 at 33.

<sup>11</sup> Mr. Curto referred to the area at or beyond the waterline to the security gate as the pier. October 14, 2010, Tr.12:1-25; *see also* Commission Exhibit 1-A.

<sup>12</sup> *Id.* at Tr. 23:4-25.

<sup>13</sup> October 14, 2010, Tr. 22:16-24.

<sup>14</sup> *Id.* at Tr. 22:20-24.

<sup>15</sup> NYSA-ILA CBA, Article VII, Section 2.

<sup>16</sup> October 14, 2010, Tr. 26:2-20.

completed work despite the fact that, for sixteen hours in a workday, these individuals are not necessarily working.

Moreover, due to minimum pay guarantees and the definition of “regular workday” in the CBAs, workers could earn overtime pay for hours when not even present at the pier.<sup>17</sup> The workday, as defined in both the NYSA-ILA CBA and the USMX-ILA Master Agreement, consists of the eight hours, between 8:00a.m. to 12:00pm and 1:00p.m. to 5:00p.m, Monday to Friday.<sup>18</sup> Hours paid outside of that eight-hour time period are paid at an overtime rate, which means that an individual could be at home sleeping while simultaneously collecting an inflated hourly wage.

Mr. Curto attempted to attribute this arrangement to the fact that the Port runs a “continuous operation” employment system.<sup>19</sup> He testified that, in contrast to the West Coast’s shift system which divides the workday into eight-hour shifts, the continuous operation system requires a larger workforce to allow the Port to runs continuously, and relief workers are needed to enable their fellow workers to take breaks.<sup>20</sup> Mr. Curto, however, acknowledged that three crane drivers cannot drive a crane at one time.<sup>21</sup> He indicated that under the West Coast shift system, fewer relief workers would need to be hired.<sup>22</sup> Mr. Curto admitted that, “. . . what you see here is a redundancy in a lot of these jobs,” and that the continuous operation system used in the Port is unlike any other system he has seen.<sup>23</sup>

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<sup>17</sup> NYSA-ILA CBA, Article IV; *see also* USMX-ILA Master Agreement, Article IV, Section.

<sup>18</sup> NYSA-ILA CBA, Article III; *see also* October 14, 2010, Tr. 43:24 to Tr. 44:24.

<sup>19</sup> October 14, 2010, Tr. 23:22-25.

<sup>20</sup> *Id.*, at Tr. 23:4-15.

<sup>21</sup> *Id.* at Tr. 23:10-12.

<sup>22</sup> *Id.* at Tr. 24:14-17.

<sup>23</sup> *Id.* at Tr. 25:19-25.

### **C. Abuse and Favoritism in the Relief System: The Case of Edward Aulisi**

#### **The Role of Checkers and Edward Aulisi's No-Show Job**

The relief system outlined above creates an atmosphere which allows favoritism and abuse to thrive. This is vividly illustrated by the case of Edward Aulisi, a former checker at APM Terminals (“APM”). In his position as checker, Mr. Aulisi was one of the individuals responsible for checking and verifying cargo at the Port.<sup>24</sup> While checkers are not part of a gang, they are an integral part of the gang system.

The number of relief checkers assigned depends on the number of cranes working at a time. One checker is assigned to work whenever a crane is working. When two cranes are working, one checker and one relief checker is assigned, and so forth.<sup>25</sup> Relief checkers are paid regardless of whether they are actually at the terminal.<sup>26</sup> In practice, the checkers themselves determine who will act as the relief checker, creating a situation in which they have nearly absolute control over their work schedule and how to “divvy up” the work hours.<sup>27</sup>

It is precisely this arrangement that enabled Mr. Aulisi, who earned \$73,531 in 2009, to have a no-show job.<sup>28</sup> At the hearings, a Commission detective testified that even though sign-in sheets indicated that Mr. Aulisi had reported to work, Commission surveillance instead revealed that Mr. Aulisi was actually home, barbequing.<sup>29</sup> On another occasion, Mr. Aulisi was observed at home mowing his lawn, even though he was checked in to work at APM.<sup>30</sup> A fellow checker who was scheduled to work with Mr. Aulisi indicated that they had not worked together in two years.<sup>31</sup> Mr. Aulisi could not have done this alone, however. Another checker

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<sup>24</sup> October 14, 2010, Tr. 28:13-21.

<sup>25</sup> NYSA-ILA CBA, Article VII, Section 3; *see also* USMX-ILA Master Agreement, Article V, Section 4.

<sup>26</sup> October 14, 2010, Tr. 31:3-9.

<sup>27</sup> *Id.* at Tr. 109:23 to Tr. 110:14.

<sup>28</sup> Commission Exhibit 2-P.

<sup>29</sup> October 14, 2010, Tr. 99:12 to Tr.100:21; *see also* Commission Exhibits 2-Q to 2-X.

<sup>30</sup> *Id.* at Tr. 100:22 to Tr. 101:21; *see also* Commission Exhibits 2-Q to 2-X.

<sup>31</sup> October 14, 2010, Tr. 102:24 to Tr. 103:3; *see also* Commission Exhibit 2-CC.

interviewed by the Commission admitted that he had previously covered entire shifts for Mr. Aulisi when he was signed in and supposed to be working.<sup>32</sup>

Disturbingly, Mr. Aulisi was neither dismissed nor even considered for dismissal for his no-show activities. Richard Carthas, Senior Director of Terminal Operations at APM, testified that even though employees are terminated for relatively benign offenses (e.g., taking excessive sick days, tardiness, being argumentative), he did not terminate Mr. Aulisi.<sup>33</sup> Mr. Carthas made frequent references to “going through the proper channels” and to “custom and practice” to justify Mr. Aulisi’s continued employment, and said that it was “unfortunate” that the relief checker system did not require individuals like Mr. Aulisi be on the dock working.<sup>34</sup> He admitted that he took no affirmative steps to ensure the Mr. Aulisi was reporting to work.<sup>35</sup> Notably, Mr. Carthas’s counsel admitted that to his knowledge, there was nothing in the NYSA-ILA CBA that prevented APM to require that relief checkers be on the pier, and that this was instead a result of custom and practice.<sup>36</sup> Mr. Aulisi was removed from the waterfront for having a no/low-show job and, as set forth below, for his association with organized crime figures.<sup>37</sup> He was indicted on Federal racketeering charges on January 20, 2011.<sup>38</sup>

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<sup>32</sup> *Id.* at Tr. 103:4-10. *See also* Commission Exhibit 2-DD.

<sup>33</sup> October 14, 2010, Tr. 114:21 to Tr. 115:10.

<sup>34</sup> *Id.* at Tr. 125:5-14, Tr. 126:14 to Tr. 127:3.

<sup>35</sup> *Id.* at Tr. 116:14-19.

<sup>36</sup> *Id.* at Tr. 127:15 to Tr. 128:18.

<sup>37</sup> *Id.* at Tr. 84:10-14. *See also* Commission Exhibit 2-AA and 2-BB.

<sup>38</sup> Indictment 10 Cr. 851, Federal District of New Jersey. This indictment was superseded on December 15, 2011.

## **Edward Aulisi's History of Association with Organized Crime Figures**

Edward Aulisi is the son of Vincent Aulisi, former president of ILA Local 1235.<sup>39</sup> Vincent Aulisi, like his son, was indicted in the same indictment that charged him with extortion conspiracy and three counts of extortion in January of 2011.<sup>40</sup> They were among the fifteen individuals indicted for a three-decade conspiracy to extort dockworkers on behalf of the Genovese crime family.

Edward Aulisi was expelled by ILA Ethical Practices Counsel, Judge Milton Mollen, in July of 2007 for failure to answer questions regarding certain conversations that were intercepted by an FBI wiretap in March of 2007.<sup>41</sup> During the hearings, a Commission detective testified that these intercepted conversations, in part, were of Mr. Aulisi speaking with Michael Coppola, a Genovese crime family capo,<sup>42</sup> about extortion payments and union-related matters.<sup>43</sup> In addition to Mr. Aulisi, Mr. Coppola was intercepted speaking with Stephen Depiro and Louis Rizzo, Jr., two soldiers in the Genovese crime family.<sup>44</sup>

Mr. Coppola was convicted in federal court several times from 1980 to 2009 on numerous charges, including extortion, racketeering, antitrust violations, and fleeing to avoid prosecution.<sup>45</sup> In 2009, Mr. Coppola was convicted on federal racketeering charges for his control over ILA Local 1235, the same union local in which the recently-indicted Vincent Aulisi served as president.<sup>46</sup> He is currently serving a sixteen-year sentence in federal prison. At the

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<sup>39</sup> October 14, 2010, Tr. 83:3-9.

<sup>40</sup> Vincent Aulisi Indictment 10 Cr. 851. This indictment was superseded in December of 2011 and Aulisi was charged with an additional eight counts of extortion.

<sup>41</sup> October 14, 2010 Tr. 84:4-9; Tr. 85:16 to Tr. 86:8. In order to have their conversations, Messrs. Coppola and Aulisi used a series of calling cards, pagers and unregistered cell phones to avoid detection by law enforcement.

<sup>42</sup> A capo is a high-ranking member of an organized crime family who supervises a group other individuals, known as a crew, who commit crimes on behalf of their capo. *Id.* at Tr. 75:7-18.

<sup>43</sup> *Id.* at Tr. 77:9-14; Tr. 83:23 to Tr. 84:3. Mr. Coppola was convicted of racketeering and racketeering conspiracy in the Eastern District of New York, in connection with the 35-year-long extortion of ILA officials and members. He was sentenced on December 18, 2009 to sixteen years in federal prison.

<sup>44</sup> *Id.* at Tr. 84:20 to Tr. 85:3.

<sup>45</sup> *Id.* at Tr. 76:15 to Tr. 77:19; *see also* Commission Exhibit 2C.

<sup>46</sup> October 14, 2010, Tr. 77:9-14; Tr. 83:3- 9.

time of Edward Aulisi's conversations with Mr. Coppola, Mr. Coppola was a fugitive from justice and was wanted for the 1977 murder of John "Johnny Cokes" Lardiere.<sup>47</sup>

During these conversations, the two discussed kickback payments known as "Christmases" that organized crime figures extracted from longshoremen.<sup>48</sup> These conversations clearly portrayed Edward Auslisi's connections to other union officials and organized crime figures, including Albert "The Bull" Cernadas, a former ILA Local 1235 president, the same union local in which Edward Aulisi's father served as president.<sup>49</sup> Mr. Cernadas was indicted, along with Edward and Vincent Aulisi, in January of 2011 on extortion and conspiracy charges.<sup>50</sup> Also included in these conversations were references to Vincent "The Cong" Colucci, also a former ILA Local 1235 president, who was convicted of extortion, racketeering and filing false income tax returns in connection with his position as president.<sup>51</sup> These conversations also highlighted Mr. Aulisi's association with Phil "The Horse" Albanese, a Genovese crime family associate who was convicted in federal court of harboring Mr. Coppola when he was a fugitive.<sup>52</sup>

Discussions between Mr. Coppola and two other individuals, Stephen Depiro and Louis "J.R." Rizzo, Jr. were also intercepted. Mr. Depiro is a soldier in the Genovese crime family whose registration with the Commission as a longshoreman was revoked in 1996 for promoting illegal gambling.<sup>53</sup> He was indicted on January 20, 2011, along with Edward Aulisi, Vincent Aulisi and Albert Cernadas, on federal conspiracy, extortion and gambling charges.<sup>54</sup> Louis

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<sup>47</sup> *Id.* at Tr. 77:20 to Tr. 78:3; Tr. 85:4 -11.

<sup>48</sup> *Id.* at Tr. 87:13-19; Tr. 95:3-23. The term "Christmases" refers to tribute payments from container royalty checks delivered to longshoreworkers in mid-December that union members must kick back through the union to organized crime. *Id.* In his 2007 conversation with Mr. Coppola, Edward Aulisi discussed payments made by ILA Local 1235, then under the leadership of his father, to Mr. Coppola and the Genovese crime family.

<sup>49</sup> *Id.* at Tr. 88:12-15; Tr. 95:3-23.

<sup>50</sup> Indictment 10 Cr. 851, District of New Jersey. Mr. Cernadas was convicted in 2005 of conspiracy to violate the Taft-Hartley Act, which makes it illegal for a union official to receive something of value from a company that employs the official's union members. October 14, 2010 Tr. 89:7-15.

<sup>51</sup> *Id.* at Tr. 89:16-22; Tr. 96:7-22; *see also* Commission's Exhibits 2-K and 2-O.

<sup>52</sup> *Id.* at Tr. 91:25 to Tr. 94:20; Tr. 92:7-14; *see also* Commission's Exhibits 2-K and 2-L.

<sup>53</sup> *Id.* at Tr. 79:3-7; Tr. 81:1-23; *see also* Commission's Exhibit 2-G.

<sup>54</sup> Indictment. 10 Cr. 851, District of New Jersey.

“J.R.” Rizzo, Jr. is Mr. Coppola’s out-of-wedlock son and a soldier in the Genovese crime family.<sup>55</sup> Mr. Rizzo had his registration as a maintenance man revoked by the Commission for promoting illegal gambling.<sup>56</sup>

During the hearings, Edward Aulisi was questioned about his association with Mr. Coppola and other organized crime figures, his compensation as a checker, and his no-show job activities. In response to each question, Mr. Aulisi invoked his Fifth Amendment privilege against self-incrimination.”<sup>57</sup>

As much as the case of Edward Aulisi illustrates how the current interpretation of the NYSA-ILA CBA not only allows – but promotes – favoritism, inefficiency and a lack of competitiveness in the Port, the Aulisi abuse pales in comparison to the abuse of others who chose to testify before the Commission.

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<sup>55</sup> October 14, 2010 Tr.79:8-15; Tr. 80:16-21; *see also* Commission Exhibit 2-E. Mr. Rizzo was convicted in 2007 on charges relating to his concealing Mr. Coppola from arrest. *Id.*

<sup>56</sup> *Id.* at Tr. 80:2-9.

<sup>57</sup> *Id.* at Tr. 104 to Tr. 107.

## II.

### **Custom and Practice Used to Contravene the Plain Language and Intent of the Collective Bargaining Agreements as Shown Through the Positions of Shop Steward and Timekeeper**

#### **A. Shop Stewards**

Shop stewards are charged by the CBAs to act as the representatives or spokespersons for Port employees and to file grievances on their behalf.<sup>58</sup> Shop stewards safeguard the CBA, and educate union members regarding their rights under the CBA.<sup>59</sup> They play a critical role in the collective bargaining process. When shop stewards fail to carry out their duties, workers are unable to assert their duly acquired rights.<sup>60</sup> Shop stewards are conferred a large amount of responsibility, yet the hearings uncovered what appears to be widespread ignorance, neglect, undemocratic practices and organized crime connections.<sup>61</sup> Also complacent in the degradation of the shop steward position are terminal executives, who again robotically cite custom and practice<sup>62</sup> as a justification for paying shop stewards massive salaries<sup>63</sup> without assigning them even basic job responsibilities.<sup>64</sup> In addition, union officials testified that there is essentially no training system for shop stewards to navigate a complex system of the CBAs, bylaws, customs and practices.<sup>65</sup>

#### **Shop Stewards: Pay Structure and Duties**

Shop stewards are paid on the basis of “ship time,” “yard time” or “terminal time.”<sup>66</sup> Under this system, they are paid as long as there is a member of their craft working at a given

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<sup>58</sup> See, e.g., NYSA-ILA CBA. Article II, Section 4; see also Commission Exhibit 1-PP.

<sup>59</sup> *Herman Erickson*, THE STEWARD’S ROLE IN THE UNION at 20-21, 30.

<sup>60</sup> *Jenson, Vernon H.*, STRIFE ON THE WATERFRONT at 86.

<sup>61</sup> October 21, 2010, Tr. 48:24 to Tr. 49:13; Tr. 79:4-13; Tr. 82:10-16; Tr. 86:15-18; November 18, 2010 Tr. 84:2-7; See also, Commission Exhibit 4-N.

<sup>62</sup> November 10, 2010, Tr. 137:11-19; *Id.* at Tr. 151:4-20.

<sup>63</sup> Commission Exhibit 4-N.

<sup>64</sup> See e.g., October 14, 2010, Tr. 65:20-22.

<sup>65</sup> November 18, 2010 Tr.74:16 to Tr. 75:20; Tr. 79:21 to Tr. 80:8.

<sup>66</sup> November 10, 2010, Tr. 145:7-16.

terminal, regardless of whether the shop stewards are working or even present at the terminal.<sup>67</sup> Some shop stewards also control whether they are on or off the clock.<sup>68</sup> This leads to inflated yearly salaries for a large number of shop stewards at the Port. Prior to the hearings, the Commission interviewed seventeen shop stewards, and their yearly salaries was presented at the hearings.<sup>69</sup> Salaries ranged from \$60,000 a year to over \$400,000, the latter earned by Ralph Gigante, nephew of former Genovese crime boss Vincent “Chin” Gigante, of ILA Local 1804-1.<sup>70</sup> Mr. Gigante apparently also has, to a certain degree, unlimited paid vacation.<sup>71</sup>

Under this system, employees have unchecked discretion to come and go as they please and to determine what hours they have “worked.” Such abuse may often arise to the level of criminal conduct. This is exemplified by the case of William A. Vitale, a former shop steward at Maher Terminals, Inc. (“Maher”), and a former trustee of ILA Local 1. Mr. Vitale was paid for working at the terminal, even when he was vacationing in Florida, California and Aruba. Mr. Vitale admitted that that he lied and had falsified time records, and that he was paid by Maher for hours that he did not work. In April of 2011, Mr. Vitale pleaded guilty to third degree theft by deception.<sup>72</sup> In addition to paying Maher \$96,582.75 in restitution, he agreed to surrender his Commission registration and to relinquish his union position.<sup>73</sup>

The NYS-ILA CBA provides that “the shop steward shall perform work or services assigned to him by the Employer . . .”<sup>74</sup> The MMMCA-ILA CBA provides that shop stewards “shall perform union duties on his own time.”<sup>75</sup> Notwithstanding this language, the vast majority of shop stewards are not assigned any work responsibilities. Most terminal executives who

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<sup>67</sup> *Id.* at Tr. 144:13-17.

<sup>68</sup> October 21, 2010, Tr. 25:23 to Tr. 26:4.

<sup>69</sup> *Id.* at Tr. 74:3-5.

<sup>70</sup> October 21, 2010, Tr. 79:4-13; Tr. 86:15-18; *see also* Commission Exhibit 4-N.

<sup>71</sup> October 21, 2010, Tr. 26:10-16.

<sup>72</sup> Waterfront Commission News Brief, April 28, 2011, <http://www.wcnyh.org/newspage54.html>.

<sup>73</sup> *Id.*

<sup>74</sup> NYS-ILA CBA, Article II, Section 4; *see also* Commission Exhibit 1-PP.

<sup>75</sup> Commission Exhibit 4-O.

testified at the hearings could not point to a reason beyond custom and practice as to why they did not assign these highly-paid individuals any work responsibilities. John Atkins, of New York Container Terminal, Inc. (“NYCT”), for example, invoked past practice twice to explain why he did not have his shop stewards performing work such as operating equipment on the pier.<sup>76</sup> When asked about his shop stewards’ daily job responsibilities, Charles Darrell, Vice President of Port Newark Container Terminal (“PNCT”), indicated that, “neither one of them turns a wrench.”<sup>77</sup> He, too, invoked custom and practice as a justification.<sup>78</sup> Sabato Catucci, Chief Executive Officer of American Stevedoring, Inc., testified that while he “would love to” give his shop stewards actual job duties to perform, he could not do so because of “past practices.”<sup>79</sup>

The fact, then, that some shop stewards neglect or are ignorant of the duties that they are actually assigned is deeply concerning. The instances of neglect documented by the hearings are numerous. One glaring example is the account of shop steward Willie Ware, who represents members of both Locals 1233 and 1235 in Newark. Mr. Ware made \$240,000 in 2009, even though he routinely plays cards at the union hall after lunch for several hours to “kill time.”<sup>80</sup> When asked to explain how Mr. Ware could be paid so much for doing so little, Mr. Darrell simply referred to custom and practice.<sup>81</sup> ILA leadership simply testified that shop stewards “have a problem articulating what they actually do.”<sup>82</sup>

Shop stewards’ neglect of their responsibilities is also illustrated by the small number of grievances filed by most shop stewards. With the exception of Romolo Colli, the shop steward

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<sup>76</sup> November 10, 2010, Tr. 137:3-10; Tr. 137:11-19.

<sup>77</sup> *Id.* at Tr. 149:10-14.

<sup>78</sup> *Id.* at Tr. 151:14 to 152:4.

<sup>79</sup> November 10, 2010, Tr. 155:4-8.

<sup>80</sup> October 21, 2010, Tr. 82:10-20. The fill-in shop steward for Mr. Ware is Salvatore LaGrasso, cousin of Nunzio LaGrasso, who was recently arrested on federal charges of racketeering and extortion<sup>80</sup> and New Jersey State charges of Extortion and Commercial Bribery. New Jersey State Grand Jury Indictment No. SGJ 597-10-3.

<sup>81</sup> November 10, 2010, Tr. 150:15 to Tr. 152:4.

<sup>82</sup> November 18, 2010, Tr. 110:6-16.

who actively filed grievances for the federally-monitored ILA Local 1588, most of the other shop stewards have handled only a few.<sup>83</sup> Notably, Ralph Gigante, Joseph Colonna,<sup>84</sup> Alfred Rispoli and Robert Fyfe,<sup>85</sup> all of ILA Local 1804-1, have handled none or one in their entire shop steward careers.<sup>86</sup> Harold Daggett, who at the time of the hearings was Local 1804-1 President, testified that a low-grievance level is indicative that a shop steward is resolving problems at the pier level and is doing their job well.<sup>87</sup> Robert Stewart, former Chief of the New Jersey Office of the Federal Organized Crime Strike Force, and current court-appointed Deputy Administrator of ILA Local 1588, disagreed with this assessment.<sup>88</sup> Mr. Stewart testified that if the shop stewards are doing their jobs correctly, there is “a fair amount of stress... [they’ve] got to know the contract and [they’ve] got to watch out for the people,” and “[they’ve] got to police the job.”<sup>89</sup>

The testimony of Ralph Gigante,<sup>90</sup> illustrates the rift between the individuals who fill the shop steward positions and their delineated job duties. Mr. Gigante testified that he believes his job is to serve as “sort of” a middleman between the company and the union.<sup>91</sup> He indicated that his goal is to “make it where everybody’s as happy as possible to get things done,” and noted that the company will communicate with him if they find issues with the way the work is being done.<sup>92</sup> Mr. Catucci gave a similar description of a shop steward’s job, indicating that the main purpose of the shop steward was to keep his employees “in line.”<sup>93</sup> Messrs. Gigante and Catucci’s description of the role of a shop steward is at significant odds with the CBAs’

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<sup>83</sup> October 21, 2010, Tr. 77:11-15.

<sup>84</sup> Mr. Colonna is related to “Chin” Gigante by marriage.

<sup>85</sup> Mr. Fyfe is married to one of “Chin” Gigante’s daughters.

<sup>86</sup> October 21, 2010, Tr. 77:15-19.

<sup>87</sup> November 18, 2010, Tr. 43:6-12. Mr. Daggett is now the International President of the ILA.

<sup>88</sup> December 2, 2010, Tr. 46:12 to Tr. 47:8.

<sup>89</sup> December 2, 2010, Tr. 44:13-24.

<sup>90</sup> Mr. Gigante testified that he was a guest of Genovese crime family capo Michael Coppola at New York Giants football games in the 1990’s. October 21, 2010, Tr. 31:11 to 32:16.

<sup>91</sup> *Id.* at Tr. 47:16-18.

<sup>92</sup> *Id.* at Tr. 46:15-23; Tr. 47:10-15.

<sup>93</sup> November 10, 2010, Tr. 153:16 to Tr. 154:9.

description of the shop steward position.<sup>94</sup> Whereas the CBAs provide that a shop steward is the workers' representative or spokesperson, their testimony depicts a shop steward as a taskmaster, working for the employer.

Mr. Gigante's limited knowledge about the CBA, which he is charged with safeguarding, is also concerning. When asked whether he was familiar with the CBAs, Mr. Gigante simply replied, "I have no idea what you're talking about."<sup>95</sup> He actually required clarification that "CBA" stood for "collective bargaining agreement," a troubling admission for an individual whose responsibility it is to enforce the rights of employees under the agreement.<sup>96</sup> He also indicated that he had "not really" read the pertinent CBA.<sup>97</sup> Mr. Gigante indicated that most issues are settled at the pier level.<sup>98</sup> However, he could not explain how he settled these issues, since he not read the collective bargaining agreements in any level of detail. Mr. Stewart testified that, in his experience, Mr. Gigante's testimony was "just not possible."<sup>99</sup>

It is unlikely that a shop steward may adequately protect the rights of the workers he or she represents, at the pier level or in the formal grievance process, without having at least a working knowledge of the applicable CBAs. Shop stewards receive almost no formal training about the collective bargaining agreements or other related matters.<sup>100</sup> Despite the fact that almost all of the testifying union leaders agreed that the collective bargaining system is extremely complex, no formal training program for shop stewards exists.<sup>101</sup> At the time of the hearings, only one union local had established a shop steward school provision in its bylaws.<sup>102</sup> While Thomas Leonardis, the subsequently-indicted former president of ILA Local 1235,

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<sup>94</sup> NYS-ILA CBA, Article II, Section 4; *see also* Commission Exhibit 1-PP.

<sup>95</sup> October 21, 2010, Tr. 34:14-25.

<sup>96</sup> October 21, 2010, Tr. 34:14-25.

<sup>97</sup> *Id.* at Tr. 35:1-9.

<sup>98</sup> *Id.* at Tr. 36:10-19.

<sup>99</sup> December 2, 2010, Tr. 46:12 to Tr. 47:8.

<sup>100</sup> November 18, 2010, Tr. 79:21 to Tr. 80:8.

<sup>101</sup> *Id.* at Tr. 74:16 to Tr. 75:9.

<sup>102</sup> *Id.* at Tr. 75:15 to Tr. 76:9.

welcomed the idea of a formal shop steward training program, he indicated that it is “hard to teach old dogs new tricks” and that he would wait until a new shop steward was appointed to actually consider a formal training requirement.<sup>103</sup> Since that testimony, Mr. Leonardis, along with one of his shop stewards and former Vice President of Local 1235, Michael Trueba,<sup>104</sup> was indicted on federal conspiracy charges on January 20, 2011.<sup>105</sup> Mr. Trueba was indicted on December 15, 2011 of nineteen counts of extortion of his own union members.<sup>106</sup>

Mr. Daggett emphatically testified that shop stewards are entitled to their six-figure salaries.<sup>107</sup> He claimed that shop stewards work twenty-four hours a day and help ensure that there are “no labor problems” in the Port.<sup>108</sup> Mr. Daggett testified that \$400,000 “[is] not a lot of money today,”<sup>109</sup> a comment that would appear to be out of touch with reality.<sup>110</sup> Mr. Daggett also recited instances in which individuals “climb cranes when it’s ten below zero” and “freeze up there.”<sup>111</sup> He indicated that chassis mechanics are consistently exposed to tough working conditions.<sup>112</sup> Mr. Daggett’s point may well be taken seriously if the individuals in high risk positions, working in inclement weather and in the middle of the night, were the longshoreworkers earning the highest pay. Instead, as Mr. Daggett well knows, it is the workers that are playing cards, leaving the docks at an early hour and who are home sleeping that are actually making the large salaries. Indeed, chassis mechanics and crane operators have little to do with shop stewards who have no work assignments and are paid twenty-four hours a day whether or not they are actually present at the terminal.

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<sup>103</sup> November 18, 2010, Tr. 82:17-24; Tr. 84:2-7.

<sup>104</sup> October 21, 2010, Tr. 84:16-18.

<sup>105</sup> Indictment, 10 Cr. 851, District of New Jersey.

<sup>106</sup> *Id.*

<sup>107</sup> November 18, 2010, Tr. 116:22 to Tr. 117:4.

<sup>108</sup> *Id.* at Tr. 118:2-12.

<sup>109</sup> *Id.* at Tr. 117:21-23.

<sup>110</sup> As noted in the hearings, New York State Supreme Court justices earned only \$135,000 a year in comparison. Mr. Daggett’s view may be influenced by the fact that he was the highest paid union leader in the country, until the ILA’s Ethical Practices Counsel ended the practice of union leaders’ receipt of multiple salaries.

<sup>111</sup> *Id.* at Tr. 120:7-10.

<sup>112</sup> *Id.* at Tr. 120:10-15.

### **Shop Stewards: Undemocratic Elections and Organized Crime Connections**

Longshoreworkers have a strong interest in making sure that their shop steward, their employer representative, is someone they can trust to protect their contractual interests. Most shop stewards on the Port, however, are appointed, and not elected, to their positions.<sup>113</sup> Some of the ILA representatives present attempted to make the case that appointing shop stewards was more beneficial than holding elections for the position.<sup>114</sup>

However, Mr. Stewart testified that elections were better for, and more popular with, the longshoreworkers. Mr. Stewart shared that there was a request for shop steward elections at Local 1588, at the BMW Vehicle Preparation Center in Jersey City, New Jersey.<sup>115</sup> Prior to those elections, the shop steward had been Anthony Angelone, who was appointed by his uncle, former ILA 1588 president John Angelone, who was subsequently was convicted in a million-dollar embezzlement scheme.<sup>116</sup> Until he was replaced, Anthony Angelone had apparently been shop steward for the “duration,” meaning that he was essentially shop steward for life.<sup>117</sup> Virgil Maldonado, ILA 1588 president, testified that his shop steward is now up for a contested, secret ballot election every three years.<sup>118</sup> This is in sharp contrast to the rest of the locals in the Port, in which union leadership and organized crime connections predominate among shop stewards, and appointment or election for a privileged few is all but inevitable.

Several shop stewards examined prior to the hearings had direct connections to organized crime associates. These well-connected shop stewards include Brian LaGrasso, cousin of the recently-indicted Nunzio LaGrasso, the secretary treasurer of ILA Local 1478.<sup>119</sup> Brian

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<sup>113</sup> *Id.*, at Tr. 43:19 to Tr. 66:13.

<sup>114</sup> *Id.* at Tr. 51:6-25; Tr. 64:5 to Tr. 65:9.

<sup>115</sup> December 2, 2010, Tr. 49:15-21.

<sup>116</sup> *Id.* at Tr. 49:15 to Tr. 50:12.

<sup>117</sup> *Id.* at Tr. 50:16-24.

<sup>118</sup> November 18, 2010, Tr. 45:5-24.

<sup>119</sup> Indictment. 10 Cr. 851, District of New Jersey; New Jersey State Grand Jury Indictment No. SGJ 597-10-3.

LaGrasso was appointed by the executive board, which included his cousin Nunzio.<sup>120</sup> In addition to this, Vincent Pimpinella, who was the Local 1 shop steward at American Stevedoring, Inc., indicated that he is the nephew of Anthony Pimpinella, a soldier in the Gambino crime family and former president of Local 1814. In 1991, Anthony Pimpinella was forced to step down as part of a consent decree in a racketeering case.<sup>121</sup>

But the most troubling shop steward connections belong to the family and relatives of Vincent “Chin” Gigante.<sup>122</sup> First, there is Ralph Gigante, who succeeded his cousin Andrew Gigante, Vincent Gigante’s son, as shop steward in 1995.<sup>123</sup> Ralph Gigante ran unopposed for shop steward, was elected by “affirmation,” and testified that he is shop steward “for life” or until he retires.<sup>124</sup> There is also Robert Fyfe, Jr., who was Vincent Gigante’s son-in-law. He, like Ralph Gigante, is an ILA Local 1804-1 shop steward.<sup>125</sup> Joseph Colonna, another son-in-law to Vincent Gigante, is also a shop steward at ILA Local 1804-1. He succeeded Vincent Gigante’s brother-in-law, John Bullaro, and was among the highest-paid shop stewards, earning about \$400,000 in 2009.<sup>126</sup> Disturbingly, the three largest stevedores in Port Newark/Elizabeth each have a shop steward who is a nephew or son-in-law of Vincent “Chin” Gigante – each earning sizable salaries. When asked how so many Gigante relatives secured prominent positions on the waterfront, James Devine, President of NYCT, was clear - - “influence.”<sup>127</sup>

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<sup>120</sup> October 21, 2010, Tr. 79:4-13. *Id.*, Tr. 79:11-13. Brian LaGrasso is also the cousin of Stephen DePiro, the recently-indicted Genovese soldier discussed earlier for his connection to Genovese capo Michael Coppola. *See id.*

<sup>121</sup> October 21, 2010, Tr. 80:3-10.

<sup>122</sup> Commission Exhibit 4-F.

<sup>123</sup> October 21, 2010, Tr. 14:12-18. *See also* Commission Exhibits 4-F and 4-G.

<sup>124</sup> *Id.* at Tr. 15:21-25; Tr. 16, 12-18; Tr. 17:11-14.

<sup>125</sup> *Id.* at Tr. 80:11-23.

<sup>126</sup> October 21, 2010, Tr. 86:9-15.

<sup>127</sup> November 10, 2010, Tr. 187:2-8.

## **Shop Stewards: Legal Implications**

The NYSA-ILA CBA provides, in pertinent part, that “[t]he shop steward shall perform the work or services assigned to him by the Employer [and] shall not receive any preferential treatment . . .”<sup>128</sup> The anti-benefit provisions of the National Labor Relations (Taft-Hartley) Act of 1947 are premised on the well settled principle that if an employer confers a benefit or gift on a union official or representative, then that individual will be induced into furthering the employer’s interests, rather than that of the union.<sup>129</sup> While compensation in the form of *bona fide* wages is specifically excluded from prohibited payments, the mere fact that the payments are in the form of wages is not.<sup>130</sup> It is clear that a union official or member who accepts such a benefit has the incentive not to take action against the interests of the employer.<sup>131</sup> Such inaction may include dropping or discouraging the filing of valid grievances by other employees against the employer.

During the Commission’s public hearings, terminal operators and various union members and officials acknowledged that it would be improper for an employer to deliver cash in an envelope to a union official or member. Yet, troublingly, those same individuals did not find it problematic that shop stewards, timekeepers and others are paid an exorbitant amount of money to do little or no work. Whether or not there is an actual Taft-Hartley violation by reason of these payments, these salaries are clearly the functional equivalent of the type of payments that are prohibited by the Act.<sup>132</sup>

In this instance, the Commission is concerned, as should all those interested in workers’

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<sup>128</sup> NYSA-ILA CBA, Article II, Section 4.

<sup>129</sup> See, generally, 29 U.S.C. § 186(a) et seq.

<sup>130</sup> See *United States of America v. Local 1804-1*, 812 F. Supp.1303, 1345 (S.D.N.Y 1993).

<sup>131</sup> See *United States v. Phillips*, 19 F. 3d 1565 (11<sup>th</sup> Cir. 1994).

<sup>132</sup> See, e.g., 75 N.Y.U.L. Rev. 775, 784 (2000), GAROFALO, CHRISTOPHER, NOTE: SECTION 302 OF THE LMRA: MAKE WAY FOR THE EMPLOYER-PAID UNION REPRESENTATIVE (stating, “even when employer payments are not made as part of an explicit quid pro quo, the payments may act to divide the loyalty of the recipient and create an incentive to pursue selfish ends at a loss to the union.”).

rights, with the fact that those shop stewards who receive salaries well in excess of their fellow union workers file markedly fewer grievances than those filed by shop stewards who are democratically elected and competitively paid. This concern is not shared by Mr. Daggett, who as noted above, was unmoved by the staggering salaries and relatively light corresponding workload. Indeed, during the public hearings, he argued that the longshoremen “should be making a hell of a lot more money than [they] are making because the companies are making billions of dollars.”<sup>133</sup> He indicated that this was a “new era,” and that “[he] wish[ed] all of the men [sic] made \$400,000.”<sup>134</sup> The fact that only selected individuals earn such high salaries is a matter of grave concern, that the Commission has referred to the ILA’s Ethical Practices Counsel for consideration and remedy.<sup>135</sup>

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<sup>133</sup> November 18, 2010, Tr. 118:20-25.

<sup>134</sup> *Id.* at Tr. 120:22-23.

<sup>135</sup> See LETTER FROM COMMISSION EXECUTIVE DIRECTOR WALTER M. ARSENAULT TO THE HONORABLE JUDGE MILTON MOLLEN, dated February 23, 2011.

## **B. Timekeepers**

Timekeepers' duties technically include, among other things, recording which employees are on the premises, keeping longshoreworkers' time, preparing timesheets, and performing various other payroll reporting functions for the employer.<sup>136</sup> In actuality, most timekeepers are instead paid exorbitant salaries, sometimes well over \$400,000, for what was described by a terminal executive as essentially data-entry position.<sup>137</sup> Like shop stewards, timekeepers are not even required to be on the pier in order to be considered as "working."<sup>138</sup> Timekeepers are selected from a regular checker list<sup>139</sup> with no additional training, educational or seniority requirements.<sup>140</sup> This creates a vacuum for union and organized crime influence to thrive. During the hearings, various terminal executives again pointed to custom and practice to explain why they pay some timekeepers for twenty-five hours of work per day.<sup>141</sup> A majority of terminal executives who testified also said that they had "inherited" their timekeepers, many of whom have organized crime and union leadership connections.<sup>142</sup> The combination of timekeepers' exorbitant salaries and mostly basic duties also detracts from the Port's competitiveness, and vividly displays the archaic nature of some provisions of the collective bargaining agreements. Terminal executives feel they must employ timekeepers at six-figure salaries, rather than hiring data-entry clerks to perform the same duties for \$40,000.<sup>143</sup>

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<sup>136</sup> October 14, 2010, Tr.33:22 to Tr.34:5; *see also*, Commission Exhibit 1-E.

<sup>137</sup> November 10, 2010, Tr.60:15-23; *see also* Commission Exhibit 5-M.

<sup>138</sup> October 14, 2010, Tr.35:15-20.

<sup>139</sup> Commission Exhibit 1-OO.

<sup>140</sup> Commission Exhibit 5-G.

<sup>141</sup> November 10, 2010, Tr.61:20-25; Tr. 81:12-21.

<sup>142</sup> *Id.* at Tr.106:9 to Tr. 107:25; *see also* Commission's Exhibit 5-DD.

<sup>143</sup> November 10, 2010, Tr.61:20-25; Tr.63:4-7.

### **Timekeepers: Pay Structure and Duties**

Timekeepers are paid in a manner similar to shop stewards. The NYSA-ILA CBA provides that “[a] timekeeper shall be employed at all times when a gang is working.”<sup>144</sup> This has apparently come to mean that much like shop stewards, timekeepers are paid as long as any longshoreworker is working in the terminal.<sup>145</sup> Mr. Devine testified that though it is “not logical” to pay timekeepers for more than twenty-four hours, it is part of the CBA to do so.<sup>146</sup> Mr. Curto indicated that although this practice is not specifically memorialized in the CBA, it is nevertheless part of the CBA because of custom and practice.<sup>147</sup> Mr. Darrell concurred, testifying that the practice has been in place for a long time and is essentially outside of his control.<sup>148</sup>

Timekeepers are paid generously for their time, whether or not they are actually working. The two highest-paid timekeepers, Paul Buglioli and Michael Giordano, both of Ports America, earn well over \$400,000 per year.<sup>149</sup> Both men are paid for twenty-five hours a day.<sup>150</sup> It is even possible to be paid for twenty-seven hours of work per day, as in done by several individuals, including Maria Cinisome, who earned \$366,025, Gerard T. Drumm, who earned \$317,964, and Michael Veter, who earned \$309, 571 in 2009.<sup>151</sup>

The duties of a timekeeper are described in the NYSA-ILA CBA as “validating employees covered by this Agreement under the Waterfront Commission Act.”<sup>152</sup> Testimony at the hearings revealed, however, that the job has been essentially reduced to data entry by custom and practice over the years. Mr. Curto testified that, instead of validating employees,

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<sup>144</sup> NYSA-ILA CBA, Article VII, Section 5.

<sup>145</sup> October 14, 2010, Tr.35:15-20.

<sup>146</sup> November 10, 2010, Tr.81:4-12.

<sup>147</sup> *Id.* at Tr. 104:6-17.

<sup>148</sup> *Id.* at Tr. 83:10-21.

<sup>149</sup> Commission Exhibit 5-M.

<sup>150</sup> *Id.*

<sup>151</sup> Commission Exhibits 5-L and 5-V.

<sup>152</sup> NYSA-ILA CBA, Article II, Section 2(c).

timekeepers “process payroll” and only sometimes check in labor.<sup>153</sup> Mr. Darrell testified that much of the work of validating who is present and working at the terminal is done by foremen and clerks,<sup>154</sup> who pass the information on to the timekeeper for processing.

Paul Buglioli, the highest-paid timekeeper in the Port, testified that he does not physically check to see that someone who is signed in is actually present on the pier, and relies instead on the foremen and the dock boss.<sup>155</sup> He further testified that he has no independent knowledge of who is actually present at the pier among maintenance men and checkers.<sup>156</sup> Another timekeeper, Carmine Pizzarello, who works at NYCT and earned \$296,757 in 2009, did not even know whose responsibility it was to record who is working, saying, “Yeah, I wouldn’t know. I haven’t the vaguest idea.”<sup>157</sup>

Timekeepers’ duties are limited and require a minimal amount of time to complete. Mr. Buglioli testified that, with the help of his fellow timekeepers, it takes approximately seven minutes to check in one hundred thirty workers in the morning.<sup>158</sup> The next check-in takes another ten to fifteen minutes to complete.<sup>159</sup> Mr. Buglioli testified that there are days that he leaves as early as 4:30 p.m., while still being paid for the rest of the day as if he were still working.<sup>160</sup>

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<sup>153</sup> November 10, 2010, Tr. 124:10-17.

<sup>154</sup> *Id.* at Tr. 57:7-12.

<sup>155</sup> October 28, 2010, Tr.41:16 to Tr. 44:20.

<sup>156</sup> *Id.* at Tr. 44:3-13.

<sup>157</sup> *Id.* at Tr. 82:5-6; Tr. 98:9-14; *see also* Commission’s Exhibit 5-BB. Pizzarello’s brother-in-law, who was an underboss for the DeCavalcante crime family, was an organizer for ILA Local 1814. Pizzarello’s nephew was a capo in that same crime family. In addition to his salary as a timekeeper, Pizzarello also earns a \$4,000 a month pension from APM terminals where he had worked as a pier superintendent and a hiring agent. *Id.* at Tr. 82:6 to Tr. 83:17.

<sup>158</sup> October 28, 2010, Tr. 48:10-20.

<sup>159</sup> *Id.* at Tr. 58:4-8.

<sup>160</sup> *Id.* at Tr. 59:13-24.

### **Timekeepers: Selection Process**

The manner in which timekeepers are selected is a glaring exception to the carefully structured seniority system,<sup>161</sup> which is in place for almost all of the other jobs on the Port. Timekeepers can be chosen freely from the checker list,<sup>162</sup> regardless of seniority, experience, education or any other factor one might take into consideration for filling a top position. The fact that these highly-lucrative positions are predominately filled by individuals with organized crime and union leadership connections is yet another example of the type of favoritism that is present throughout the Port. As a general matter, every timekeeper whom the Commission interviewed except one has a relative who also works or has worked on the waterfront.<sup>163</sup> Notably, all but four timekeepers whom the Commission interviewed have a father, grandfather or father-in-law who holds or held a prominent position on the waterfront.<sup>164</sup>

The case of Paul Buglioli, whose testimony about his job duties is discussed above, is one of the more vivid accounts of how the selection system is susceptible to questionable influences. Mr. Buglioli first obtained his job as a timekeeper in 1991, with the help of his father, Robert Buglioli, in 1991.<sup>165</sup> Robert Buglioli was a terminal manager at the time, and held a managerial position at Ports America.<sup>166</sup> The elder Buglioli was photographed as recently as 2007<sup>167</sup> at a Christmas party hosted by Nicholas Furina, a former hiring agent at the Military Ocean Terminal in Bayonne, New Jersey, who is one of the individuals currently listed on what is known as the

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<sup>161</sup> Commission Exhibits I-JJ to I-NN.

<sup>162</sup> Commission Exhibit I-OO.

<sup>163</sup> October 28, 2010, Tr. 98:25 to Tr. 99:1-4; *see also* Commission Exhibit 5-CC.

<sup>164</sup> *Id.* at Tr. 99:4-8.

<sup>165</sup> *Id.* at Tr.26:14 to Tr. 27:16.

<sup>166</sup> *Id.* at Tr. 26:23 to Tr. 27:22. Mr. Buglioli was subsequently charged with associating with members of organized crime, including Genovese capo Joseph “Pepe” LaScala, Genovese associates Nicholas Furina and Andrew Gigante and others, as well as hiring violations and a failure to cooperate with a Commission investigation. Mr. Buglioli chose to retire rather than face a hearing.

<sup>167</sup> December 2, 2010, Tr. 59:11-21; *see also* Commission Exhibit 5-C.

“ILA Barred List.”<sup>168</sup> The ILA Barred List, which was compiled by ILA Ethical Practices Counsel Judge Milton Mollen, names those individuals that longshoreworkers are barred from associating with due to those individuals’ connections to organized crime.<sup>169</sup> Nicholas Furina’s annual Christmas parties were also attended by other individuals on the ILA Barred List, including Joseph “Pepe” LaScala, a made member in the Genovese crime family and described by Robert Buglioli in an interview as a “gangster.”<sup>170</sup> For this reason, the federally-monitored ILA Local 1588 sends out an annual notice to its members instructing them not to attend Mr. Furina’s Christmas parties.<sup>171</sup>

While the list was meant to be publicized by the ILA locals in order to protect their members from the repercussions of associating with organized crime associates, most of the Port’s locals have done little to publicize the list. A number of union leaders testified that they neither mailed the list to their members, nor posted it. Disturbingly, the nine union leaders who testified at the hearings could only name three of the eighty-six individuals on the list.<sup>172</sup> One of the union leaders could not name a single person on the list.<sup>173</sup> Likewise, longshoreworkers interviewed by the Commission had never even heard of the list.<sup>174</sup> Paul Buglioli testified that he had never heard of the list or the ILA Code of Ethics.<sup>175</sup>

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<sup>168</sup> October 28, 2010, Tr. 29:20-23; December 2, 2010, Tr. 31:21-22; Tr. 47:15 to Tr. 48:20; Tr. 59:11-21; *see also* Commission Exhibits 7-F, 7-G. Nicholas Furina was arrested in 2002 by the New Jersey Attorney General and was charged with racketeering on behalf of the Genovese crime family. Mr. Furina’s son and grandson, Anthony Furina Sr. and Anthony Furina Jr., also worked on the waterfront as pier superintendents. Both had their licenses revoked by the Commission for failing to have good character and integrity, as required by the Waterfront Commission Act. *Id.* at Tr. 31:5 to Tr. 33:6.

<sup>169</sup> November 18, 2010, Tr. 124:7-13.

<sup>170</sup> October 28, 2010, Tr. 30:14-23; December 2, 2010, Tr. 30:19-22; Tr. 61:16-17.

<sup>171</sup> October 28, 2010, Tr. 33:19 to 34:5.

<sup>172</sup> *Id.* at Tr. 129 to Tr. 136.

<sup>173</sup> *Id.* at Tr. 129

<sup>174</sup> *Id.* at Tr. 124:22 t 125:6.

<sup>175</sup> October 28, 2010, Tr.29:20 to 30:13.

### **Timkeepers: Others With Union and/or Organized Crime Connections**

There are other troubling instances of favoritism in the selection of timekeepers. Three timekeepers are related to ILA Local 1 President Stephen Knott, the union local from which timekeepers are selected.<sup>176</sup> Philip Petti, a Maher Terminals timekeeper who earned \$300,955 in 2009, is Local 1 President Steven Knott's cousin.<sup>177</sup> Mr. Petti is paid his high salary despite the fact that there are days when he is at the pier for as little as two and a half hours.<sup>178</sup> Michael Holler, an APM timekeeper who earned \$214,717 in 2009, is Mr. Knott's son-in-law.<sup>179</sup> Holler said in an interview that he takes most Wednesdays off, yet is still paid as long as there is a ship working in the terminal.<sup>180</sup> Vincent Lemaldi, also a timekeeper at APM, who earned \$273,726 in 2010, is also related to Mr. Knott by marriage.<sup>181</sup> Mr. Knott's many waterfront relatives, through blood or marriage, also includes checkers, longshoremen, a hiring agent, a NYSA – ILA fund administrator, a former ILA Local 1235 trustee and Lawrence Ricci, the murdered Genovese crime family capo and former Local 1235 business agent.<sup>182</sup>

Another example of a timekeeper with powerful connections is John LaGrasso, who earned \$188,837 in 2009.<sup>183</sup> He is the son of Nunzio LaGrasso who, as previously discussed, was the Vice President of the ILA's Atlantic Coast Division and Secretary-Treasurer of ILA Local 1478 until his arrests by both federal and New Jersey state authorities.<sup>184</sup> One of Nunzio LaGrasso's co-defendants is Rocco Ferrandino, who was head timekeeper at Maher Terminals until his arrest.<sup>185</sup> Nunzio LaGrasso's nephew is Alan Marfia, a former longshoreman and

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<sup>176</sup> Commission Exhibit 5-S.

<sup>177</sup> Commission Exhibit 5-Y.

<sup>178</sup> Commission Exhibit 5-Y.

<sup>179</sup> Commission Exhibits 5-R and 5-S.

<sup>180</sup> *Id.* at Tr. 88:8-17.

<sup>181</sup> Commission Exhibit 5-R.; October 28, 2010, Tr. 87:23-25; Tr.88:18-25.

<sup>182</sup> Commission Exhibits 5-S and 6-B, October 28, 2010, Tr. 88:20 to 89:24; December 2, 2010, Tr.72:3 to73:14.

<sup>183</sup> October 28, 2010, Tr. 90:3-6.

<sup>184</sup> *Id.* at Tr. 90:17-22.

<sup>185</sup> *Id.* at Tr. 91:2-6.

Newark police officer who was arrested with Nunzio LaGrasso and Mr. Ferrandino.<sup>186</sup> Mr. Marfia ran the license plates of surveillance vehicles and reported them back to his uncle.<sup>187</sup> Other LaGrasso relatives include longshoremen, checkers, a shop steward, ILA employees and Joseph Queli, a former longshoreman and Genovese Crime soldier who was arrested in April 2010 for loansharking and money laundering.<sup>188</sup> When asked how he obtained the timekeepers position, John LaGrasso replied, “I don’t know.”<sup>189</sup>

John O’Donnell, of APM, is another individual for whom timekeeping is a family affair. O’Donnell’s sons, Darren and John O’Donnell, are both checkers, and the elder John O’Donnell is responsible for checking them both in to work.<sup>190</sup> He is the only timekeeper who claims that he personally checks in checkers.<sup>191</sup> Notably, John O’Donnell’s son Darren covered for Edward Aulisi, discussed above, when Mr. Aulisi did not come to work.<sup>192</sup>

### **Timekeepers: Summary and Discussion**

While the CBA requires that “[a] timekeeper shall be employed at all times when a gang is working,” it does not provide that only one single timekeeper should be paid.<sup>193</sup> Paying such individuals outsized salaries that are not required by the CBA, salaries that are totally divorced from the work performed and which are given to individuals based on their connections rather than on any objective qualifications not only affects the competitiveness of the Port, but also dispels the notions of fairness and union democracy. The vast majority of the individuals who fill these lucrative, low-intensity positions are connected to union officials and/or organized crime associates. This fact, combined with the seemingly arbitrary way that timekeepers are

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<sup>186</sup> *Id.* at Tr. 99:13-15.

<sup>187</sup> *Id.* at Tr. 99:19-21.

<sup>188</sup> *Id.* at Tr. 99:13 to Tr. 100:16. Mr. Queli was convicted of conspiracy to commit criminal usury in February of 2012 and is currently serving a five-year New Jersey State prison sentence.

<sup>189</sup> October 28, 2010, Tr. 100:17-21; *see also* Commission Exhibit 5-EE.

<sup>190</sup> *Id.* at Tr. 97:2-6.

<sup>191</sup> *Id.* at Tr. 96:4-12.

<sup>192</sup> October 28, 2010, Tr. 97:8-15.

<sup>193</sup> CBA Article VII, Section 5.

selected from a checker list regardless of seniority or education, forms a system susceptible to organized crime influence and favoritism. This long-observed custom and practice continues to hinder the Port's competitiveness.<sup>194195</sup>

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<sup>194</sup> Pat Foye, Executive Director of the Port Authority of NY-NJ, echoed this position when he observed that, “[a]t a time the container terminal industry says it is struggling and asking for substantial Port Authority subsidy in our harbor, the industry must help itself by eliminating ‘low- show jobs.’” See *Jennifer Fermino*, “WHARF RATS: ‘MADE MEN’ RAKE IN \$400,000 AS DOCKWORKERS,” *New York Post*, March 5, 2012.

## CONCLUSION

The Commission's public hearings demonstrated and publicized that certain hiring practices, achieved primarily through calculated provisions of collective bargaining agreements, illogical interpretations of other provisions, and claims of "custom and practice," have created within the Port no-work and no-show positions generally characterized by outsized salaries. The privileged few that are given those jobs are overwhelmingly connected to organized crime figures or union officials. Indeed, many of the individuals discussed herein have been indicted or arrested recently on charges ranging from racketeering, to conspiracy, to theft to loan sharking. Among those individuals are:

- **Edward Aulisi**, Port checker, removed by the Commission for organized crime connections and having a no-show job; Aulisi invoked his Fifth Amendment right when questioned about his no-show job and organized crime connections.
- **Vincent Aulisi**, former ILA Local 1235 president and father of Edward Aulisi;
- **Thomas Leonardis**, suspended ILA Local 1235 president, who testified at the public hearings;
- **Stephen DePiro**, former longshoreman and Genovese soldier;
- **Joseph Queli**, former longshoreman and Genovese soldier;
- **Regina Queli**, wife of Joseph Queli and cousin to Nunzio LaGrasso;
- **Albert Cernadas, Sr.**, former ILA Local 1235 president;
- **Nunzio LaGrasso**, suspended secretary treasurer of ILA Local 1478, cousin of Salvatore LaGrasso, father of timekeeper John LaGrasso;
- **Salvatore LaGrasso, Jr.**, suspended longshoreman, cousin of Nunzio LaGrasso;
- **Michael Trueba**, suspended shop steward, former vice president of ILA Local 1235;
- **Rocco Ferrandino**, suspended head timekeeper at Maher Terminals;
- **William Vitale**, former shop steward and trustee of ILA Local 1, pleaded guilty to theft by deception in the third degree.

## FINDINGS AND RECOMMENDATIONS

Based on the evidence, testimony and information discussed herein, the Commission has made the following findings:

**1. The current system by which the CBA is structured and interpreted creates a significant number of prime positions on the waterfront that require little or no work and that command outsized salaries. Those positions are almost always filled with favored individuals – those who are connected to union leaders or organized crime figures.** The Commission recognizes that in every industry there will be some jobs that are more desirable than others. We also recognize that where one person sees an enlarged workforce to be the result of unsupportable featherbedding another sees those “excess” jobs to be the result of safety concerns and a legitimate insistence on job security. The Commission does not take a definitive position on the tension between the two, believing that this is a subject for real collective bargaining between the union and employer associations. We do, however, take a strong position against the ability of mob figures and labor racketeers to create and fill prime positions for the purpose of maintaining their influence on the docks, and withdrawing from the waterfront large amount of money at the expense of efficient Port operations. If legitimate negotiations produce desirable positions (but ones that require real work for fair pay), access to those positions should be as a result of seniority and merit, not association with organized crime figures and labor leaders.

**2. Shop stewards who are hold “prime” positions are of particular concern since they have an incentive to avoid fulfilling their fiduciary responsibilities.** Most shop stewards are not assigned specific job duties, despite the fact that the NYSA-ILA CBA clearly states that they are to perform work or services assigned to them by the employers. Employers pay shop stewards some of the highest salaries on the docks, well beyond what is required by any

of the CBAs, and justify it with the oft-repeated refrain of “custom and practice.” The Commission finds that this creates an incentive for shop stewards to protect the employers’ interests and not those of their fellow union members. This is in direct violation of either the letter or the spirit of the anti-benefit provisions of the Taft-Hartley Act. These problems are only exacerbated by shop stewards being generally appointed or “elected” through sham and undemocratic procedures often for as long as they wish to maintain their position. Moreover, even if a job steward wished to fulfill his or her responsibilities, there are no educational programs and no apparent effort on the part of union locals to educate shop stewards as to their proper role.

**3. Timekeepers and other checkers earn exorbitant salaries, yet do not perform the work contemplated by the CBAs.** Often the role of checkers, as exemplified by timekeepers, is based upon historic realities no longer valid in a world of containers, computers and scanners. While there are duties that need to be performed in those areas, new job descriptions need to be created and used to design appropriate staffing and compensation requirements. Utilizing vestigial roles to mandate the existence of prime positions filled by mob and union favorites merely adds to organized crime influence and makes the port less competitive.

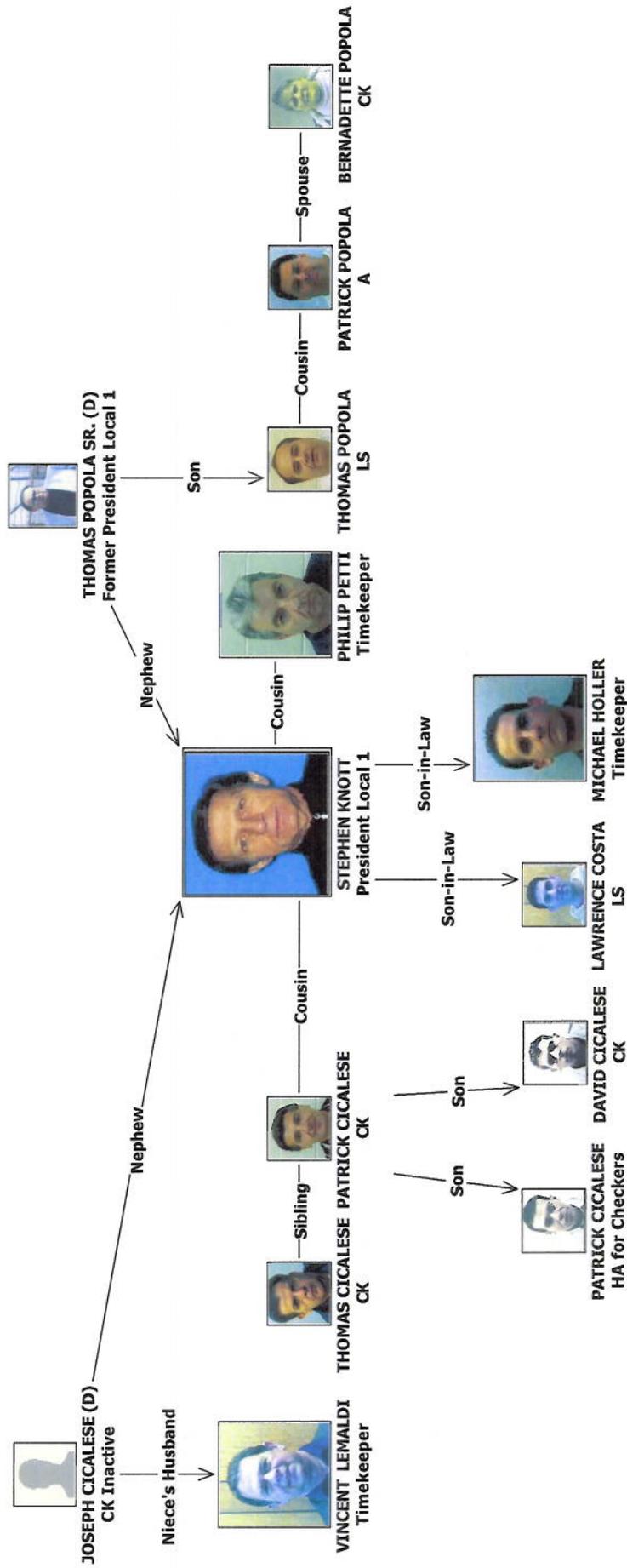
Based on the foregoing, the Commission recommends the following changes by the shipping industry:

- “Ship time “or “terminal time” payments that go to a single person, whether or not the person is actually working, should be eliminated. The implementation of a shift system, rather than a continuous operation system, for all dockworkers would be a highly advantageous change for Port efficiency.
- “Prime” positions – inflated salaries for little or no work should be eliminated.
- Desirable positions should be fairly distributed based upon seniority and merit. Training for those positions should be fair and based upon objective criteria that will reduce – rather than increase – the lack of diversity in the Port.
- Secret ballot elections should be held for shop stewards positions. These positions should be for a fixed term of years with a clearly delineated process for recall and removal.
- Shop stewards should be assigned the same responsibilities and be paid the salary as their co-workers. While time off should be given for the purpose of conducting union business, any additional compensation for such work should be paid by the union under strict rules.
- All elected shop stewards should be trained as to the provisions in the applicable collective bargaining agreements and their responsibilities in enforcing them.
- Check-in of checkers and longshoreworkers by the timekeeper should be done in a manner that capable of being audited, which takes advantage of technology and does not highly compensate favored individuals for little or no work.

# **ATTACHMENT A**



# KNOTT FAMILY



# LAGRASSO FAMILY



**JOSEPH QUELI**  
FORMER LONGSHOREMAN  
ARRESTED

SPOUSE



**REGINA QUELI**

2ND COUSIN



**NUNZIO LAGRASSO**  
Sec. Tres. LOCAL 1478  
ARRESTED

SIBLING



**LINDA MARFIA**  
SECRETARY  
Local 1478

SPOUSE



**ALAN MARFIA SR**  
CHECKER  
\$152,712

SON



**ALAN MARFIA**  
FORMER LONGSHOREMAN  
ARRESTED

UNCLE



**JOSEPH QUELI JR**  
CHECKER  
\$187,413

SIBLING



**SALVATORE LAGRASSO**  
LONGSHOREMAN  
\$233,040

SONS



**SALVATORE LAGRASSO III**  
CHECKER  
\$200,160

COUSIN



**BRIAN LAGRASSO**  
SHOP STEWARD  
\$60,000



**ANTHONY LAGRASSO**  
CHECKER  
\$159,730



**JOHN N. LAGRASSO**  
TIMEKEEPER  
\$188,836

SIBLING



**LISA MACCIA**  
SECRETARY  
Local 1478

SPOUSE



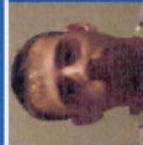
**RICHARD S MACCIA**  
HIRING AGENT  
(INACTIVE)

SON



**JEFFERY MACCIA**  
CHECKER  
\$122,160

SIBLINGS



**JAMES E LAGRASSO**  
CHECKER  
\$165,580



**JENNIFER LAGRASSO-PERANIO**  
ILA WELFARE FUND EMPLOYEE

5-DD

