

**Office of Dennis M. Walsh
The Review Officer
90 Civil 5722 (SDNY)**

The Law Office of Dennis M. Walsh
415 Madison Ave, 11th Floor
New York, NY 10017
dmwfw@verizon.net
646.553.1357

NOTICE OF POSSIBLE ACTION BY THE REVIEW OFFICER

**To: Joseph Passero
Local Union 1556**

Pursuant to Paragraph 5.b.iii of the Stipulation and Order entered on June 3, 2010, in the matter of United States v. District Council, 90 Civil 5722 (SDNY), please be advised that the Review Officer is considering issuing a veto of your service as president of Local Union 1536 of the United Brotherhood of Carpenters.

The facts and circumstances under review involve suspected violations of (1) Paragraph 5.b.iii.d and e of the Stipulation and Order entered in this matter on June 3, 2010 and (2) 29 U.S.C. Section 501(a); to wit:

from in or about August 2012 to the present, you violated your fiduciary duty by providing personal information of members of Local Union 1556, including social security numbers, to a convicted felon without the knowledge and consent of Local Union 1556's executive board and membership.

Pursuant to procedures promulgated by the Review Officer to supplement the record in such matters (enclosed), and as provided for herein, you may deliver a written submission to this office via email stating any facts, law or arguments (and appending any exhibits) which might be, in your view, relevant to consideration of this matter. Said submission must be delivered by noon on February 11, 2013. Should you so desire, you may appear, individually or with counsel, in the RO's office at 395 Hudson Street at that or another agreed upon time to discuss your submission and ask questions about the foregoing. Please email any such submission or other communications relevant to this notice to dmwfw@verizon.net, with copies to jacknmitchell@gmail.com and oflah267@optonline.net.

Dated: January 31, 2013

Dennis M. Walsh
Review Officer

Joseph Passero
Local Union 1556

Dennis M. Walsh
Review Officer

dmwfw@verizon.net

February 9th, 2013

Re: Notice of Possible Action

Mr. Walsh:

I am submitting this written statement in the hopes that it will assist you in reaching a just decision with regard to the Notice of Possible Action that you, the Review Officer, have issued to me.

Please allow me to submit that I have complied with the final request made by you (via teleconference) at my last interview with your staff back in January 2013. The interview culminated with you directing me to notify both the Local Union 1556 Executive Board and the Membership, via statement and in writing, of the facts of my attempt in dealing with the assessment issue.

I have acknowledged, and continue to recognize, that in my zeal to do what I felt was my fiduciary duty on behalf of the Members I represent, I by-passed procedures. Whether I was duped into this situation or not, the responsibility must lay with me, as President of Local Union 1556 I accept this fact.

Mr. Walsh, as you know, I have touted your actions within our Union during these difficult times. I have spoken of you with the respect you've earned in tirelessly and efficiently working to eliminate the boldly unbridled corruption that existed prior to your arrival as well as assisting all of us in moving toward a union we can all be proud of standing in great integrity and service to the Members. All the while, others have looked down upon me for standing in your corner. You have emboldened me, as well as others, who have been silenced for way too long. If I have disappointed you, I truly apologize. If I have disappointed my Members, or my Executive Board, I apologize. I will stand by your decision, whatever it may be.

If there is a question of whether I, Joseph L. Passero, have not exercised properly the fiduciary responsibility bestowed upon me by the membership, then I must say to you, that I have never, I repeat never had any criminal intent, or any intent to harm those Members I represent. On the contrary, I have nothing but the utmost respect and best interest for my constituency. I can assure you that given a second chance, there will be no overlooking procedural processes, for in doing so, I fail in my responsibility to lead by example. It bears repeating that I recognize and take responsibility for my mistakes.

In full recognition of my lapses mentioned in all of the above, I hope we may not lose sight of what I was trying to accomplish. I was tasked in direct conversations by your office, with submitting a comparison analysis to determine possible deficiencies in funds paid to Local Union 1556's Members Benefit Relief Plan. Clearly as you have pointed out, in the process I made some mistakes which may have placed some membership information to unwarranted exposure. I clearly need more guidance in this pursuit. Not being an experienced forensic accountant. I did my best. I tried to exercise due diligence, and any failure to do so was not intentional. This is no excuse for overlooking or bypassing procedures. I submit that the task at hand was larger than I expected, and I may have been overwhelmed. In the process I failed to follow procedures. If I am guilty of anything more than what I have mentioned above, it is of not asking for assistance when needed. Let it be known that not one member of the Executive Board ever volunteered to assist me in this task nor where they forthcoming in any type of assistance.

In making your decision I ask you in all your wisdom to consider the following: I am aware that since my term began that I have been a thorn in the side of many at the NYCDCC. I lurk the halls in hopes of catching officials on the way out, who try to avoid meeting with me over business matters. I acknowledge that I may not be easy on the eye. I am sure at times I have even angered some in your own office. I ask that you do not allow these facts to tarnish your decision.

In closing, I quote your own words as they were published in the Fifth Interim Report: *"The new leaders at the District Council must minister to their constituents by acts which demonstrate their sound judgment and integrity. They face an almost impossible challenge without your support and counsel."* In fact, I received no support or counsel from them. *"There are those of you ... who have heard the sound of the horns and answered the urgent call to duty"*, I am one of these. And in my urgency to accomplish a clear and needed goal, I clearly missed certain protocols. *"I say to those of you willing to tread that path -- do not doubt that you will be protected, strengthened and indeed comforted in your journey-- for that road is lighted by the rule of law. If you have pledged to uphold the honor of this brotherhood, the light of the law will guide you and its force will keep you safe."* Mr. Walsh, I ask for your protection in my path to serve the Members of my Local.

Mr. Walsh, I ask that you meet with me one last time before you make your decision. I thank you for your time, and trust that your decision will be just.

Respectfully Submitted



Joseph Passero
President
Local Union 1556

thedockbuilder@gmail.com

Declaration of Jack Mitchell

Jack Mitchell hereby declares pursuant to 28 USC Section 1746:

1. I am the Chief Investigator for Dennis Walsh, the Review Officer (“RO”) for the New York City District Council of Carpenters (“District Council”) and its affiliated benefit funds (“Benefit Funds”). The RO was appointed pursuant to a June 3, 2010 Stipulation and Order in the matter of United States of America v. District Council et al. (90 civ. 5722).
2. In my capacity as the Chief Investigator I supervised an investigation into the misuse of union property by the President of Local Union 1556, Joseph Passero in violation of 29 U.S.C. Section 501 (a) and Section 51 A (7) of the UBC Constitution.
3. The Review Officer sent Passero a Notice of Possible Action (“NPA”) on January 31, 2013. The NPA is attached as Exhibit 1.
4. Joseph Passero was elected President by the members of LU 1556 in July of 2012. Passero was sworn in as President on July 24, 2012.
5. James Tsakanikas is an independent computer consultant for Union Solutions, Inc., a company that provides a number of computer software products. On November 3, 2006 Tsakanikas plead guilty to embezzlement from union benefit funds in violation of 18 U.S.C. Sections 664 and 669 and 8 U.S.C. Section 1027.
6. The investigation included interviews of Passero, Tsakanikas and others, review and analysis of documents and records of LU 1556, Union Solutions and others, and review of LU 1556 meeting minutes.
7. Passero admitted to providing personal information, including social security numbers, of dockbuilder members of LU 1556 to Tsakanikas without appropriate safeguards and the approval of the executive board and membership of LU 1556.
8. According to Passero and Tsakanikas, on or about August 14, 2012, Passero and Tsakanikas discussed Passero engaging Tsakanikas and Union Solutions to build a computer program to assist LU 1556 in its collection of the 2% working assessments.¹

¹ Every dockbuilder in LU 1556 pays a working assessment that is 2% of the hourly pay rate for each hour worked. Typically in the past the member consented to a dues check-off in which the employer deducted the working assessment from the members paycheck and then remitted that to the local.

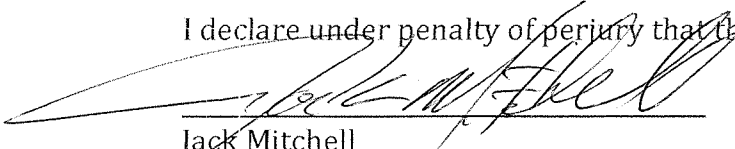
9. According to Tsakanikas, on or about August 22, 2012, Passero verbally agreed to engage Union Solutions to begin work on the program. Passero agreed to an hourly rate of \$125 an hour with a maximum of \$10,000 in fees. Passero told Tsakanikas that the payment of fees by LU 1556 is contingent upon approval by the LU 1556 executive board and membership.
10. According to Tsakanikas, in late August and early September of 2012 Passero provided Tsakanikas three computer files: (1) information from LU 1556 current computer system, DAMS; (2) dockbuilder ULTRA information; and (3) dockbuilder benefit funds information. All three files had personal information of dockbuilders. Tsakanikas uploaded the three files to an online computer server maintained by Pace Software. Tsakanikas had access to the files on the server and downloaded them to his computer hard drive. Tsakanikas told me that he still has the computer files on his computer hard drive and has copies of them on an online computer server that is different from those maintained by Pace.
11. In or about late August 2012, Tsakanikas began to work on developing a new computer program for LU 1556. In order to conduct this work, Passero provided Tsakanikas files from the LU 1556 DAMS system. These files included personal information of every dockbuilder member of LU 1556, including, but not limited to, name, address, and social security number. Tsakanikas was not required to sign a confidentiality agreement. See September 4, 2012 invoice from Union Solutions to LU 1556 attached as Exhibit 2.
12. In September 2012, Passero provided Tsakanikas two additional computer files containing private information of dockbuilders. One contained information from the UBC ULTRA system and the second contained information from the benefit funds. These files contained personal information of dockbuilders including but not limited to, name, address, UBC number, date of birth and telephone number. See September 27, 2012 invoice from Union Solutions to LU 1556 attached as Exhibit 3.
13. On January 2, 2013, Passero was interviewed by the members of the RO staff regarding his dealings with Union Solutions, Pace Software and Tsakanikas. In the interview, Passero admitted that he provided Tsakanikas three computer files and that the information on these files included personal information of dockbuilders including social security numbers.

The money collected from the working assessments are used to pay members cash benefits when the member is unemployed.

14. In response to the NPA, Passero admitted that he "by-passed procedures" regarding his efforts to develop a computer system for LU 1556 and that he accepted responsibilities for his actions. See the response attached as Exhibit 4.

15. I have reviewed the executive board and regular membership meeting minutes of LU 1556 from July through October 2012. At no time did Passero obtain prior approval of the Executive Board and membership of LU 1556 to provide personal information of dockbuilder members to Tsakanikas, Union Solutions, Pace Software or anyone else.

I declare under penalty of perjury that the foregoing is true and correct.



Jack Mitchell

Dated: February 12, 2013

**Dennis M. Walsh
The Review Officer
90 Civil 5722 (SDNY)**

The Law Office of Dennis M. Walsh
415 Madison Avenue, 11th Floor
New York, NY 10601
dmwfw@verizon.net
646.553.1357

United States v. District Council, et al., 90 Civ. 5722 (SDNY)(RMB)

NOTICE OF VETO BY THE REVIEW OFFICER

**To: Joseph Passero
President, Local Union 1556**

The facts and circumstances under review involve suspected violations of (1) Paragraph 5.b.iii (d) of the Stipulation and Order entered in this matter on June 3, 2010, and (2) 29 U.S.C. Section 501(a).

Upon the attached Declaration of Jack N. Mitchell, dated February 12, 2013, incorporated herein by reference, having considered the submission of Local Union 1556 President Joseph Passero, dated February 9, 2013 (also incorporated herein by reference), and having discussed the matter with Mr. Mitchell and William J. O'Flaherty, both investigators on my staff who are familiar with this matter, I find that there is reasonable cause to believe that by negligently (i) disclosing confidential personal identification information of members of Local 1556, including social security numbers, to a third party, in this case a software vendor doing business with Mr. Passero in his capacity as the President of Local Union 1556, (ii) failing to take necessary precautions to safeguard such information, and (iii) failing to timely inform the executive board or members of Local 1556 of his conduct or seek their permission to engage in such business and make such disclosure, Mr. Passero has violated his fiduciary duty to the members of Local 1556.

I recognize -- as Mr. Passero states in his submission -- that his intentions were good. In seeking to develop a software program to aid the local union in its ability to audit the performance of employers in remitting the "two percent" assessment withheld from Dockbuilder members' pay, Mr. Passero was trying to create a cost-effective means to hold employers accountable. The historic lack of such accountability is a recognized problem which harms the members. However, it was incumbent upon Mr. Passero to attempt to achieve that goal in a manner consistent with his fiduciary status.

The conduct violated the Stipulation and Order and presents grounds for a veto pursuant to Paragraph 5.b.iii (d and e) of the Stipulation and Order.

Accordingly, the service of Joseph Passero as the President of Local Union 1556 is hereby vetoed.

Dated: February 12, 2013

Dennis M. Walsh
Review Officer



INVOICE

Page 1 of 1

Sold To :

Carpenters Local 1556
395 Hudson Street, First Floor
New York, NY 10014

Invoice Date : September 4, 2012
Invoice # : 13124
Customer # : 197

Attention: Joseph Passero, President

Date	Description
8/24/2012	Discuss project requirements with Joseph. Convert Employer and Member from Foxpro into USI database. Create Carpenters 1556 SQL database.
8/27/2012	Convert 12 years of work assessments into SQL database.
8/28/2012	Setup Carpenters reports and users for initial use.
8/29/2012	Create audit spreadsheet and explain to Joseph and Rita.
8/30/2012	Meet with Rita. Preliminary traing and discuss audit.
8/31/2012	Create rates in SQL database and create shortage analysis.
9/4/2012	Add new NJ rates, create audit of benefit hours versus work assessment hours and other small audits.

Technician	Rate	Qty	Amount
James T	125.00	0.75	93.75
James T	125.00	1.75	218.75
James T	125.00	0.75	93.75
James T	125.00	2.50	312.50
James T	125.00	1.50	187.50
James T	125.00	3.50	437.50
James T	125.00	1.50	187.50
James T	125.00	3.75	468.75
James T	125.00	4.25	531.25

Remit To : **Union Solutions, Inc**
4 Cadiz Court
Pacifica, CA 94044

Total Amount Due **\$2,531.25**

20.25

TERMS: DUE UPON RECEIPT



INVOICE

Page 1 of 1

Sold To :

Carpenters Local 1556
 395 Hudson Street, First Floor
 New York, NY 10014

Invoice Date : September 27, 2012
 Invoice # : 13126
 Customer # : 197

Attention: Joseph Passero, President

<i>Date</i>	<i>Description</i>	<i>Technician</i>	<i>Rate</i>	<i>Qty</i>	<i>Amount</i>
8/25/2012	Setup of database.	Bill Gower	125.00	2.00	250.00
9/4/2012	Process current member file from Ultra.	James T	125.00	0.75	93.75
	Process phase 2 audits. Discuss with Joseph. Set up prelim job histories.	James T	125.00	2.00	250.00
9/5/2012	Process final phase 2 audits.	James T	125.00	2.50	312.50
	Create phase 3 audits.	James T	125.00	1.75	218.75
9/6/2012	Finalize phase 3 audits and discuss with Joseph.	James T	125.00	1.25	156.25
	Train Rita on data entry of work assessments.	James T	125.00	1.50	187.50
9/7/2012	Online meeting with Rita; Training and discussing audits.	James T	125.00	1.75	218.75
9/10/2012	Online meeting with Rita; Traing and audits	James T	125.00	0.75	93.75
	Afternoon online meeting with Rita: Discuss mods, trainming, and audits.	James T	125.00	1.00	125.00
9/11/2012	Fix phase 3 audits.	James T	125.00	2.00	250.00
9/12/2012	Online meeting with Rita; mainly audits	James T	125.00	0.50	62.50
	Setup related docs for pdf, bmp, gif, and doc types. Create audit phase 4. Fix dupe UBC ids.	James T	125.00	2.50	312.50
9/13/2012	Online meeting with Rita and Joseph.	James T	125.00	0.50	62.50
	Setup certified and non-cert steward. Design and create steward hours spreadsheet. Finish reconverting DAMS data.	James T	125.00	4.50	562.50
9/14/2012	Import and process benefit data. Create audit of benefit data versus work assessments.	James T	125.00	6.50	812.50
9/16/2012	Finish benefit hours analysis, make pretty and discuss with Joseph.	James T	125.00	2.00	250.00
9/18/2012	Online meeting with Rita	James T	125.00	0.50	62.50
	Create July 2012 Aidit. Repeatable for any month.	James T	125.00	1.00	125.00
9/19/2012	Compare and match benefit employers with DAMS employers. Discuss with Joseph.	James T	125.00	2.50	312.50
9/20/2012	Deposit summary report for work assessments.	James T	125.00	0.50	62.50
9/23/2012	Design steward form and writeup process.	James T	125.00	2.25	281.25
9/26/2012	Comprehensive audit fiscal year 2011 by employer and member.	James T	125.00	4.50	562.50

Total Amount Due \$5,625.00

45.00

TERMS: DUE UPON RECEIPT

Remit To : Union Solutions, Inc
4 Cadiz Court
Pacifica, CA 94044