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8



9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA  
11

12 MARIO SALAS, individually, and on  
behalf of all others similarly situated;  
13 MELVIN CHAMBERLAIN,  
individually, and on behalf of all  
14 others similarly situated;  
ALBIN WATSON, individually, and  
15 on behalf of all others similarly  
situated;  
16 JOHN PAXIN, individually, and on  
behalf of all others similarly situated;

17 Plaintiffs,

18 vs.

19 INTERNATIONAL UNION OF  
20 OPERATING ENGINEERS, a trade  
union;  
21 WILLIAM C. WAGGONER, an  
individual;  
22 VINCE GIBLIN, an individual;  
JAMES T. CALLAHAN, an  
23 individual;  
BRIAN E. HICKEY, an individual;  
24 PATRICK L. SINK, an individual;  
JERRY KALMAR, an individual;  
25 RUSSELL E. BURNS, an individual;  
RODGER KAMINSKA, an individual;  
26 JAMES M. SWEENEY, an individual;

Case No.:

**CV 12-10506 ABC (PSWx)**  
CLASS ACTION

**CLASS ACTION COMPLAINT  
FOR:**

1. Violations Of Racketeer Influenced  
And Corrupt Organizations Act  
[18 U.S.C. § 1962(c)]
2. Violations Of Racketeer Influenced  
And Corrupt Organizations Act  
[18 U.S.C. § 1962(d)]
3. Violations Of Racketeer Influenced  
And Corrupt Organizations Act  
[18 U.S.C. § 1962(b)]
4. Violations Of Racketeer Influenced  
And Corrupt Organizations Act  
[18 U.S.C. § 1962(d)]
5. Violations of Labor Management  
Disclosure Act  
[29 U.S.C. § 501]
6. Breaches of Fiduciary Duties  
[ERISA]
7. Aiding and Abetting

**DEMAND FOR JURY TRIAL**

27  
28

1 ROBERT T. HEENAN, an individual;  
2 DANIEL J. MCGRAW, an individual;  
3 DAREN KONOPASKI, an individual;  
4 MICHAEL GALLAGHER, an  
5 individual;  
6 GREG LALEVEE, an individual;  
7 TERRANCE E. MCGOWAN, an  
8 individual;  
9 LOUIS G. RASETTA, an individual;  
10 JAMES VAN DYKE, an individual;  
11 PATRICIA M. WAGGONER, an  
12 individual;  
13 BERT TOLBERT, an individual;  
14 MICKEY J. ADAMS, an individual;  
15 KURT GLASS, an individual;  
16 RON SIKORSKI, an individual;  
17 DAN BILLY, an individual;  
18 DAN HAWN, an individual;  
19 LARRY DAVIDSON, an individual;  
20 STEVE BILLY, an individual;  
21 FRED YOUNG, an individual;  
22 C. W. POSS, an individual;  
23 JOHN NELSON, an individual;  
24 WALT ELLIOT, an individual;  
25 MITCH WHITE, an individual;  
26 MIKE RODDY, an individual;  
27 MICHAEL CRAWFORD, an  
28 individual;  
BRUCE COOKSEY, an individual;  
MIKE PRLICH, an individual;  
DON BOURGUIGNON, an  
individual;  
JOHN SAWYER, an individual;  
PAUL VON BERG, an individual;  
JIM HULSE, an individual;  
MIKE GOMEZ, an individual;  
OPERATING ENGINEERS FUNDS  
INC. a non-profit corporation; and  
DOES 1 through 10, inclusive,

Defendants.

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## I. INTRODUCTION

1  
2 1. This action arises from years of illegal activity by the International  
3 Union of Operating Engineers and its controlling officers and co-conspirators.  
4 Local 12, a local trade union, and its members, were victimized by those many  
5 years of illegal activity. The unlawful abuses suffered by Local 12 and its members  
6 takes two predominant forms. First, millions upon millions of dollars were  
7 withheld and/or embezzled from Local 12 and its membership, much of which was  
8 used by Defendant WILLIAM C. WAGGONER and his circle of co-conspirators  
9 for personal benefit. Second, the membership of Local 12 was denied the right to  
10 freely select its own officers, through fair and honest elections, again, as a result of  
11 machinations by Defendant WILLIAM C. WAGGONER, with the knowledge and  
12 assistance of INTERNATIONAL UNION OF OPERATING ENGINEERS and its  
13 leadership, of which Defendant WILLIAM C. WAGGONER was a highly placed  
14 member.

15 2. The conduct of Defendants harkens back to the days of unrepentant  
16 racketeering by organized crime, which makes some sense here. The International  
17 Union of Operating Engineers and Local 12's leadership conduct their affairs with  
18 the same disregard for others' rights as the mob. Not surprisingly, the International  
19 Union of Operating Engineers has a long history of ties to organized crime families  
20 in New York and New Jersey, and they have apparently learned their techniques  
21 from the very best of those crime syndicates.

## II. JURISDICTION AND VENUE

22  
23  
24 3. The action is brought, among other bases, under the Interstate  
25 Commerce Clause of the United States Constitution, and the Racketeering, Mail  
26 Fraud, Wire Fraud and Money Laundering laws of the United States. In addition,  
27 this action is brought pursuant to Article 1, Section 1 of the Constitution of the  
28 State of California and other statutes and laws of the State of California.

1           4.       Jurisdiction is specifically conferred on this Court by various federal  
2 statutes including, but not limited to, the following: Section 1964 of the Racketeer  
3 Influenced and Corrupt Organizations Act of the Organized Crime Control Act of  
4 1970 as amended, 18 U.S.C. § 1964, based upon a pattern of racketeering activity  
5 in which Defendants have been engaged in connection with their operation of the  
6 International Union of Operating Engineers, consisting of violations of, among  
7 others, (a) 18 U.S.C. § 1341, relating to mail fraud, (b) 18 U.S.C. § 1343, relating  
8 to wire fraud, (c) 18 U.S.C. § 1957, relating to monetary transactions of unlawfully  
9 obtained proceeds from specified crimes, including mail fraud, 18 U.S.C. § 1341,  
10 and wire fraud, 18 U.S.C. § 1343, (d) 18 U.S.C. § 1951, relating to travel and use  
11 of interstate commerce in furtherance of certain unlawful activities, including  
12 unlawful monetary transactions, 18 U.S.C. § 1957.

13           5.       Original jurisdiction lies with this Court as to the Federal questions  
14 raised herein, pursuant to 28 U.S.C. § 1331.

15           6.       Jurisdiction over any California State causes of action contained in this  
16 Complaint arises under the doctrine of supplemental jurisdiction, 28 U.S.C. §  
17 1367(a).

18           7.       Venue as to each Defendant is proper in this District pursuant to 18  
19 U.S.C. § 1965, because each of the Defendants resides, is found, has an agent,  
20 controls and/or transacts or transacted affairs in this District. In addition, the  
21 Defendants are engaged in interstate and foreign commerce, and a substantial part  
22 of the events giving rise to the claims for violations of Federal law occurred in this  
23 District, all in the course of interstate and foreign commerce.

### 24 25                   **III. THE PARTIES TO EACH CAUSE OF ACTION**

#### 26           **A. Plaintiffs**

27           8.       Plaintiff Mario Salas is, and at all relevant time was, a member of  
28 Local 12. Plaintiff Salas is a former Business Agent for Local 12.

1           9.     Plaintiff Melvin Chamberlain is, and at all relevant time was, a  
2 member of Local 12. Plaintiff Chamberlain is a former Instructor at the OETT  
3 Training center. He is now retired.

4           10.    Plaintiff Albin Watson is, and at all relevant time was, a member of  
5 Local 12. Plaintiff Watson is a former Coordinator at the OETT Training center.  
6 He is now retired.

7           11.    Plaintiff John Paxin is, and at all relevant time was, a member of Local  
8 12. Plaintiff Paxin is a former Executive Board member and Instructor at the  
9 OETT Training Center.

10          12.    Plaintiffs reserve the right to seek leave to amend this complaint to add  
11 new plaintiffs, if necessary, in order to establish suitable representative(s) of the  
12 Class proposed herein and/or any necessary sub-Class.

13  
14           **B.     Defendants**

15          13.    Defendant International Union of Operating Engineers is a trade union  
16 that primarily represents operating engineers, who work as heavy equipment  
17 operators, mechanics, and surveyors in the construction industry, and stationary  
18 engineers, who work in operations and maintenance in building and industrial  
19 complexes, and in the service industries. IUOE also represents nurses and other  
20 health industry workers, a significant number of public employees engaged in a  
21 wide variety of occupations, as well as a number of job classifications in the  
22 petrochemical industry.

23          14.    Defendant James T. Callahan is the General President of IUOE,  
24 allegedly elected in November 2011. Prior to his election by the general executive  
25 board (little more than an appointment by outgoing General President (“GP”)  
26 Giblin as all officers of the General Executive Board swear allegiance to the GP  
27 and to his named successor. There has never been a contested “election” in the  
28 history of the IUOE for the position of General President. Defendant Callahan



1 served as the IUOE General Secretary-Treasurer and was elected as IUOE Vice  
2 President in 2008. Defendant Callahan is also a Trustee of the IUOE General  
3 Pension Fund.

4 15. Defendant Brian E. Hickey is General Secretary-Treasurer of IUOE,  
5 elected in November 2011. Mr. Hickey has served as an IUOE Vice President  
6 since 2001. Defendant Hickey is also a Trustee of the IUOE Central Pension Fund  
7 and also Business Manager of Local 399, located in Chicago, Illinois. Local 399 is  
8 also a stationary local.

9 16. Defendant William C. Waggoner is the First Vice President of IUOE.  
10 Mr. Waggoner was first elected as an IUOE Vice President in 1980. Mr. Waggoner  
11 is also the Western States Director and Business Manager of Local 12  
12 headquartered in Pasadena, California. Local 12 is a hoisting and portables local  
13 which principally engages in the construction industry.

14 17. Defendant Patrick L. Sink is the Third Vice President of IUOE. Mr.  
15 Sink was first elected as an IUOE Vice President in 2004. Mr. Sink is Business  
16 Manager of IUOE Local 18 headquartered in Cleveland, Ohio. Local 18 is a mixed  
17 local in that it has both a hoisting and portables division and a stationary division  
18 (18s).

19 18. Defendant Jerry Kalmar is the Fourth Vice President of IUOE. Mr.  
20 Kalmar was first elected as an IUOE Vice President in 2005. Mr. Kalmar is the  
21 Business Manager of IUOE Local 39. Local 39 is a stationary local headquartered  
22 in San Francisco, California.

23 19. Defendant Russell E. Burns is the Fifth Vice President of IUOE. Mr.  
24 Burns was first elected as an IUOE Vice President in October 2006. Mr. Burns is  
25 the Business Manager for IUOE Local 3 headquartered in Alameda, California.

26 20. Defendant Rodger Kaminska is the Sixth Vice President of IUOE. Mr.  
27 Kaminska was first elected as an IUOE Vice President in 2008. Mr. Kaminska is  
28 the Business Manager for IUOE local 101 headquartered in Kansas City, Missouri.

1           21. Defendant James M. Sweeney is the Seventh Vice President of IUOE.  
2 Mr. Sweeney was first elected as an IUOE Vice President in 2009. Mr. Sweeney is  
3 Business Manager for IUOE Local 150 headquartered in Countryside, Illinois.

4           22. Defendant Robert T. Heenan is the Eighth Vice President of IUOE.  
5 Mr. Heenan was first elected as an IUOE Vice President in 2009. Mr. Heenan is the  
6 Business Manager of IUOE Local 542 headquartered in Fort Washington,  
7 Pennsylvania.

8           23. Defendant Daniel J. McGraw is the Ninth Vice President of IUOE.  
9 Mr. McGraw was first elected as an IUOE Vice President in 2011. Mr. McGraw  
10 also serves as the Northeast Regional Director for the IUOE and is headquartered in  
11 Albany, New York. He is also the Business Manager for IUOE Local 17  
12 headquartered in Lakeview, New York.

13           24. Defendant Daren Konopaski is the Tenth Vice President of IUOE. Mr.  
14 Konopaski was first elected as an IUOE Vice President in 2011. Mr. Konopaski is  
15 the Business Manager of IUOE Local 302 headquartered in Bothell, Washington.

16           25. Defendant Michael Gallagher is the Eleventh Vice President of IUOE.  
17 Mr. Gallagher was first elected as an IUOE Vice President in 2011. Mr. Gallagher  
18 is the Business Manager of IUOE Local 793 headquartered in Oakville, Ontario,  
19 Canada.

20           26. Defendant Greg Lalevee is the Twelfth Vice President of IUOE. Mr.  
21 Lalevee was first elected as an IUOE Vice President in 2011. Mr. Lalevee is the  
22 Business Manager for IUOE Local 825 headquartered in Springfield, New Jersey.

23           27. Defendant Terrance E. McGowan is the Thirteenth Vice President of  
24 IUOE. Mr. McGowan was first elected as an IUOE Vice President in 2011. Mr.  
25 McGowan is also a Trustee of the IUOE General Pension Fund. He is the Business  
26 Manager of IUOE Local 139 headquartered in Pewaukee, Wisconsin.

27           28. Defendant Louis G. Rasetta is the Fourteenth Vice President of IUOE.  
28 Mr. Rasetta was first elected as an IUOE Vice President in 2012. Mr. Rasetta also

1 serves as the Chairman of the Board of the IUOE General Pension Fund. He is  
2 Business Manager of IUOE Local 4 which is headquartered in Medway,  
3 Massachusetts.

4 29. Defendant Vincent (Vince) Giblin was General President of IUOE  
5 from about 2005 until his retirement in November 2011.

6 30. Defendant James Van Dyke was the Chief of Staff for IUOE, but he is  
7 now retired.

8 31. Defendant Patricia M. Waggoner is the wife of Defendant William  
9 Waggoner and a Senior Vice President of Amalgamated Bank.

10 32. Defendant Bert Tolbert is the Administrator of the Southern California  
11 Training Trust and the Southern Nevada Training Trust.

12 33. Defendant Mickey J. Adams is and/or was a Trustee of the Local 12  
13 Health & Welfare Trust, the General Pension Fund, and the Local 12 Operating  
14 Engineers Training Trust. Defendant Adams is the President.

15 34. Defendant Kurt Glass is and/or was a Trustee of the Local 12 Health &  
16 Welfare Trust, the General Pension Fund, and the Local 12 Operating Engineers  
17 Training Trust. Defendant Glass is the Recording Secretary for Local 12.

18 35. Defendant Ron Sikorski is and/or was a Trustee of the Local 12 Health  
19 & Welfare Trust, the General Pension Fund, and the Local 12 Operating Engineers  
20 Training Trust. Defendant Sikorski is the Vice-President of Local 12.

21 36. Defendant Dan Billy is and/or was a Trustee of the Local 12 Health &  
22 Welfare Trust and the General Pension Fund.

23 37. Defendant Dan Hawn is and/or was a Trustee of the Local 12 Health &  
24 Welfare Trust, the General Pension Fund, and the Local 12 Operating Engineers  
25 Training Trust. Defendant Hawn is the Financial Secretary of Local 12.

26 38. Defendant Larry Davidson is and/or was a Trustee of the Local 12  
27 Health & Welfare Trust, the General Pension Fund, and the Local 12 Operating  
28 Engineers Training Trust. Defendant Davidson is the Treasurer of Local 12.

1           39. Defendant Steve Billy was a Trustee of the Local 12 Operating  
2 Engineers Training Trust.

3           40. Defendant Fred Young was a Trustee of the Local 12 Operating  
4 Engineers Training Trust.

5           41. Defendant C. W. Poss is and/or was a Trustee of the Local 12 Health  
6 & Welfare Trust, the General Pension Fund, and the Local 12 Operating Engineers  
7 Training Trust.

8           42. Defendant John Nelson is and/or was a Trustee of the Local 12 Health  
9 & Welfare Trust, the General Pension Fund, and the Local 12 Operating Engineers  
10 Training Trust.

11          43. Defendant Walt Elliot is and/or was a Trustee of the Local 12 Health  
12 & Welfare Trust and the General Pension Fund.

13          44. Defendant Mitch White is and/or was a Trustee of the Local 12 Health  
14 & Welfare Trust and the General Pension Fund.

15          45. Defendant Mike Roddy is and/or was a Trustee of the Local 12 Health  
16 & Welfare Trust and the General Pension Fund.

17          46. Defendant Michael Crawford is and/or was a Trustee of the Local 12  
18 Health & Welfare Trust and the General Pension Fund.

19          47. Defendant Bruce Cooksey is and/or was a Trustee of the Local 12  
20 Health & Welfare Trust.

21          48. Defendant Mike Prlich is and/or was a Trustee of the Local 12 General  
22 Pension Fund.

23          49. Defendant Don Bourguignon is and/or was a Trustee of the Local 12  
24 Operating Engineers Training Trust.

25          50. Defendant John Sawyer is and/or was a Trustee of the Local 12  
26 Operating Engineers Training Trust.

27          51. Defendant Paul Von Berg is and/or was a Trustee of the Local 12  
28 Operating Engineers Training Trust.

1           52. Defendant Jim Hulse is and/or was a Trustee of the Local 12 Operating  
2 Engineers Training Trust.

3           53. Defendant Mike Gomez is and/or was a Trustee of the Local 12  
4 Operating Engineers Training Trust.

5           54. Defendant Operating Engineers Funds Inc. is a non-profit corporation  
6 that administers the employee benefit programs for over 35,000 participants of  
7 Local 12.

8           55. Plaintiffs do not know the true names or capacities of the persons or  
9 entities sued herein as DOES 1-10, inclusive, and therefore sue said Defendants by  
10 such fictitious names. Each of the DOE Defendants was in some manner legally  
11 responsible for the violations alleged herein. Plaintiffs will amend this complaint  
12 to set forth the true names and capacities of these Defendants when they have been  
13 ascertained, together with appropriate charging allegations, as may be necessary.

14           56. At all times mentioned herein, the Defendants named as DOES 1-10,  
15 inclusive, and each of them, were residents of, doing business in, availed  
16 themselves of the jurisdiction of, and/or injured Plaintiffs and aggrieved employees  
17 in the State of California, among other locations.

18           57. At all times mentioned herein, each Defendant was the agent, servant,  
19 or employee of the other Defendants and in acting and omitting to act as alleged  
20 herein did so within the course and scope of that agency or employment.

21           58. The term “Defendants” as used herein includes DOES 1-10.  
22

#### 23                           IV. DEFENDANTS’ MISCONDUCT

##### 24           A. About the IUOE

25           59. The International Union of Operating Engineers (IUOE) is a trade  
26 union that primarily represents operating engineers, who work as heavy equipment  
27 operators, mechanics, and surveyors in the construction industry, and stationary  
28 engineers, who work in operations and maintenance in building and industrial

1 complexes, and in the service industries. IUOE also represents nurses and other  
2 health industry workers, a significant number of public employees engaged in a  
3 wide variety of occupations, as well as a number of job classifications in the  
4 petrochemical industry.

5 60. Founded in 1896, IUOE today has approximately 400,000 members in  
6 123 local unions throughout the United States and Canada. IUOE is the 10th largest  
7 union in the AFL-CIO.

8  
9 **B. IUOE Forced Plaintiffs Serving As Officers of Local 12 to**  
10 **Contribute to the President's Club, a Political Action Fund**

11 61. Vince Giblin, as General President of IUOE, dramatically increased  
12 contributions to IUOE's Political Action Fund, the President's Club, previously  
13 known as EPEC. However, he did so by engaging in illegal conduct. Giblin  
14 required any officer of a local union to contribute to the President's Club. Officers  
15 were told that if they wanted to serve as an officer, they had no choice but to  
16 contribute to the President's Club, in amounts ranging from about \$800 to about  
17 \$1,000 per year. The contributions were accomplished through compulsory payroll  
18 deductions. Waggoner sent out a memo to staff members (excluding clerical  
19 employees) informing them that they had to sign an authorization for payroll  
20 deductions for the mandatory President's Club contributions.

21  
22 **C. Waggoner Forced Employees of Local 12 to Contribute to His Re-**  
23 **election Fund**

24 62. The OETT is managed by a group of six purportedly independent  
25 Trustees; however, the independence is a sham. Three Trustees work for  
26 Waggoner as union representatives on the Board. Three other Trustees represent  
27 contractors on the labor management side. Waggoner ensures that one  
28 management-side Trustee will always vote in the manner that Waggoner directs. In

1 addition to the three union-side Trustees that do Waggoner's bidding, Waggoner  
2 controls four of the six votes at all times.

3         63. Albin "Skip" Watson became the Curriculum Coordinator of the  
4 Operating Engineers Training Trust (OETT) in and around November 1997. When  
5 Watson became the Curriculum Coordinator, he was given a monthly expense  
6 check, in the amount of \$550 per month. After Mr. Watson had been in that  
7 position for about two years, the Administrator called him into his office and  
8 reprimanded Watson for failing to contribute to the "BA's Fund." Watson had no  
9 idea what the Administrator was talking about. The Administrator explained that  
10 anyone who received a monthly expense check was expected to contribute \$50 a  
11 month to the "BA's Fund." The Administrator made it clear to Watson that the  
12 contribution was not viewed as voluntary. While the Administrator excused  
13 Watson for his lack of contributions in the past, Watson was told to begin  
14 contributions immediately. When Watson later asked what the money was for, a  
15 business agent explained to him that it was for the Bill Waggoner Re-Election  
16 Fund. That business agent told Watson that the money went to Pasadena and was  
17 given to Waggoner's secretary.

18         64. When employees asked if they could pay their mandatory BA's Fund  
19 contribution by check, they were told, "No. This fund does not exist. Cash only."  
20  
21  
22  
23  
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28

1           D.    **Assets Were Diverted or Embezzled from Local 12 and IUOE**  
2                   **Accounts or Trust Accounts Created for the Benefit of Union**  
3                   **Members**

4           1.    **Defendants Used Aircraft Purchased by Local 12 for**  
5                   **Personal Use, Embezzled Revenues Generated by Those**  
6                   **Aircraft, and Falsified Many Years of LM-2 Filings to**  
7                   **Conceal Activities and True Costs and Asset Values to Local**  
8                   **12**

9           65.    At least as early as 2000, Local 12 owned a Beechcraft Sky King Twin  
10 Turbo Prop airplane. Local 12 did not report the value of the aircraft on Line 7 of  
11 Schedule 5 attached to Local 12's Form LM-2 Labor Organization Annual Report  
12 ("LM-2"). However, in the same LM-2 filing, Nickolas Bruce Timpe is listed in  
13 Schedule 10 ("Disbursements to Employees") as a "pilot" employed by Local 12 in  
14 2000. William Waggoner is listed as the addressee for any mailings associated  
15 with the LM-2.

16           66.    The FAA listed Aircraft N44KA as a model number B200 turbo prop,  
17 SN BB-1711, manufactured by Raytheon Aircraft Co. Raytheon model B200 is  
18 commonly referred to as a Beechcraft Super King Air.

19           67.    Waggoner and Local 12 failed to report the aircraft on the 2001 LM-2.  
20 But, as before, Nickolas Bruce Timpe is listed in Schedule 10 ("Disbursements to  
21 Employees") as a "pilot" employed by Local 12. The 2001 LM-2 also appears to  
22 omit the aircraft's costs and expenses, other than the pilot salary, though, based on  
23 a 2004 filing by Local 12, it is clear that Local 12 claimed to have a Beechcraft  
24 Super King Air aircraft registered with the FAA as N44KA.

25           68.    In 2002, Local 12 borrowed \$4,000,000 from the Work Preservation  
26 Fund, on a note allegedly issued on June 1, 2002, to mature on June 1, 2015, with  
27 stated payments of \$25,000 per month. The claimed purposed of the loan was to  
28 serve as the down payment on a "new aircraft." In addition to that loan, the 2002



1 LM-2 also lists a loan from Amalgamated Bank of New York, in the original  
2 amount of \$3,352,125.00, at an interest rate of 4.25%. The loan's note date is June  
3 30, 2002, with a maturity date of July 1, 2003, but no payments were reported on  
4 the LM-2 filing for 2002. In 2002, Nickolas Bruce Timpe is listed in Schedule 10  
5 ("Disbursements to Employees") as a "pilot" employed by Local 12. Allen Wayne  
6 Morisset is listed on that same Schedule as a "Business Agent" in 2002, but he is  
7 later listed as a pilot in 2003.

8 In 2002, Local 12 apparently purchased a 2001 Cessna Citation XL, with  
9 registration number N705SG. The reported value of the Cessna in 2002 was  
10 \$8,644,396.00. The nine-passenger cabin was appointed with, among other things,  
11 leather seats, a couch, a lavatory, walnut trim, 110-volt electrical outlets, 4 writing  
12 tables, and a wine caddy. The plane is pictured below:



27 Waggoner convinced the Executive Board to approve the purchase as an investment  
28 because, as promised by Waggoner, the Cessna jet would be leased, generating

1 income, at least 51% of the time.

2 69. In 2003, Waggoner and Local 12 failed to report either aircraft on the  
3 2003 LM-2. But aircraft sales tax was reported for the purchase of the newer  
4 aircraft, in the amount of \$705,375. The loan from Work Preservation Fund was  
5 listed as receiving timely payments. However, no payments were made on  
6 Amalgamated loan for the reporting period of 2003. Despite no reported payments  
7 on the Amalgamated loan, Amalgamated Bank of NY loaned an additional  
8 \$1,000,000.00 to Local 12. In 2003, Nickolas Bruce Timpe and Allen Wayne  
9 Morisset are listed in Schedule 10 (“Disbursements to Employees”) as a “pilots”  
10 employed by Local 12. Christopher Gables is reported on staff as “clerical” in  
11 2003, but he later is listed as a “pilot” in 2004.

12 70. In the 2004 LM-2 filing, an aircraft with tail number N44KA, the  
13 Beechcraft Super King Air twin turbo prop, was reported as sold for \$1,705,000.00.  
14 The 2004 LM-2 reported an initial cost \$6,422,438.00; however, the IRS 990 filing  
15 for the same year reports the initial cost as \$3,122,437.50 excluding a newly  
16 purchased engine. Local 12 also reported purchasing an engine for the turbo prop  
17 aircraft for \$ 300,000.00 during the 2004 reporting period. The loan from Work  
18 Preservation Fund was listed as receiving timely payments. However, no payments  
19 were made on Amalgamated loan for the reporting period of 2004. In 2004,  
20 Nickolas Bruce Timpe and Christopher Gables are listed in Schedule 10  
21 (“Disbursements to Employees”) as a “pilots” employed by Local 12. The 2004  
22 LM-2 does not appear to reflect either aircraft’s operating costs and expenses, other  
23 than the pilot salaries.

24 71. In the 2005 LM-2 report, more information was suddenly reported  
25 about the aircraft. Pilot salaries of \$140,024.00, and total disbursements to pilots  
26 of \$176,666.00 were reported. Transactions involving aircraft were reported in  
27 General Overhead, in amounts of \$92,721, \$35,550, \$93,633, totalling  
28

1 \$221,904.00. The Amalgamated Bank loan was repaid in full, without any  
2 apparent interest.

3 72. In the 2006 LM-2 report, even more information was suddenly  
4 reported about the one remaining aircraft, the Cessna. Pilot salaries of  
5 \$123,376.00, and total disbursements to pilots of \$161,337.00 were reported.  
6 Transactions involving aircraft were reported in General Overhead, in amounts of  
7 \$63,373, \$31,550, \$551,964, \$138,615, \$65,232, \$ 37,084, totalling \$887,818.00.  
8 The total transactions for *one* aircraft exceeded \$1 million. Prior to 2005, there  
9 were two aircraft maintained at some point; i.e. a Beechcraft Super Sky King and  
10 the Cessna. Earlier LM-2 reporting does not seem to reflect one or both aircraft's  
11 operating cost and or expenses other than the pilot salary expense.

12 73. In 2006, the reported value of the aircraft was identified as diminishing  
13 by half, with an original value of \$8,644,396.00 and a 2006 value of about  
14 \$4,203,468.

15 74. In the 2007 LM-2 report, Pilot salaries of \$156,370.00, and total  
16 disbursements to pilots of \$186,811.00 were reported. Transactions involving  
17 aircraft were reported in General Overhead, in amounts of \$40,835, \$136,464,  
18 \$59,829, \$36,138, \$149,331, \$ 5337, \$49,119, \$18,700, \$204,034, totalling  
19 \$699,787.00.

20 75. In 2009, the Cesna, with registration number N705SG, was advertised  
21 for lease, at \$3,325.00 per hour. No lease proceeds are reported in any LM-2 filing  
22 by Local 12. The agent handling lease arrangements was Guardian Air, owned by  
23 James Previti.

24 76. In the 2010 LM-2 filing, the value of the Cesna is not reported or not  
25 accurately reported. The total value of reported "other fixed assets" is \$11,342.00,  
26 far below the value of the Cesna.

27 77. In 2010, the Cesna, with registration number N705SG, was advertised  
28 for lease. No lease proceeds are reported in any LM-2 filing by Local 12.

1           78.     In the 2011 LM-2 filing, the value of the Cesna is not reported or not  
2 accurately reported. The total value of reported “other fixed assets” is \$22,560.00,  
3 far below the value of the Cesna.

4           79.     Union officers, who frequently travelled in the Local 12 aircraft,  
5 would sometimes take commercial flights “just to make it look good”. The  
6 locations where this aircraft flew and does fly are adequately serviced by most  
7 commercial carriers.

8           80.     Vince Giblin utilized the Cesna on multiple occasions without  
9 compensating Local 12 for the rental time and expense of operating the plane.

10          81.     Approximately one-third of Local 12’s members are “agency fee”  
11 members, who include all public employees that are members of Local 12. Agency  
12 fee members must be given the choice to decline political contributions.

13 Waggoner, without consent or approval of the membership, gave use of Local 12’s  
14 Cesna Jet to Local 12’s Political Action Fund. The Political Action Fund, in turn,  
15 made in-kind contributions of Jet flight time to individuals running for elected  
16 office or to politicians promoting matters of interest to Local 12. Because the  
17 Political Action Fund failed to compensate Local 12 for use of Local 12’s Cesna  
18 Jet, the in-kind contributions amounted to forced political contributions, and  
19 agency fee members were precluded from opting out of partisan union political  
20 spending or other activity.

21          82.     On March 3, 2012, LeAnn Goff married Kenneth D. Waggoner. Goff  
22 is the daughter of Vice-President Carl Goff of Local 3. Waggoner attended that  
23 wedding in Sacramento, using Local 12’s Cesna to attend the wedding. The plane  
24 stayed in Sacramento for an entire week, with a pilot and co-pilot, at Local 12’s  
25 expense, for the wedding travel.

26          83.     Patricia Waggoner, wife of William Waggoner, used Local 12’s  
27 Beechcraft and Cesna jet for her own personal travel. William Waggoner  
28 frequently used Local 12’s Beechcraft to visit his brother in Branson, Missouri.

1  
2           **2. Defendants Embezzled Revenue from Local 12's Printing**  
3           **Press, Failing to Report That Income on Any IRS Form 990**  
4           **or LM-2 Forms, and Diverting Resources From Agency Fee**  
5           **Members Without Consent**

6           84. Local 12 owns a large printing press. Allied Printing Trades Council  
7 assigns numbers to printers to identify the source of any printing; Local 12's  
8 number from Allied Printing Trades Council is 212.

9           85. Local 501 ordered 10,000 calendars annually from Waggoner and  
10 Local 12. Local 501 paid either \$1.25 or \$1.50 for each calendar, resulting in  
11 orders of at least \$12,500k in printing annually for Local 501. The income to Local  
12 12 appears nowhere on either the Local 12 IRS 990s or the LM-2s for Local 12.

13           86. An identical press operated by Local 3 reports income to Local 3 in  
14 excess of \$250,000 per year. With the same press and similar supporting staff, it is  
15 likely that Local 12 is receiving more than \$250,000 in revenue per year for  
16 printing, but those revenues are not reported by Local 12, indicating that the funds  
17 are likely diverted by Waggoner and his team.

18           87. As alleged above, approximately one-third of Local 12's members are  
19 agency fee members, who include all public employees that are members of Local  
20 12. Agency fee members must be given the choice to decline political  
21 contributions. Waggoner, without consent or approval of the membership,  
22 authorized the purchase of printing press consumables from General Fund assets.  
23 The printing performed for candidates was routed through the Political Action  
24 Fund, without compensation from the Political Action Fund. The Political Action  
25 Fund, in turn, made in-kind contributions of printed materials to individuals  
26 running for elected office or campaigning on matters of interest to Local 12.  
27 Because the Political Action Fund failed to compensate Local 12 for use of Local  
28 12's printing press resources and materials, the in-kind contributions amounted to

1 forced political contributions, and agency fee members were precluded from opting  
2 out of partisan union political spending or other activity.

3  
4 **3. Defendants Embezzled Other Property Purchased By Local**  
5 **12 or Its Many Associated Trusts**

6 88. On Training Trust training site purchased a semi trailer. The semi  
7 trailer was gutted and apprenticeship staff turned it into a mobile barbeque facility.  
8 It is capable of producing enough food to feed tens of thousands of individuals.  
9 Defendant Waggoner took the converted semi trailer and parked it in his own back  
10 yard. Waggoner leases the trailer back to Local 12, retaining the revenue for  
11 himself, when Local 12 wants to use it for a Local 12 barbeque or other Local 12  
12 sponsored event.

13 89. OETT Whittier purchases equipment initially identified as purchased  
14 for the Southern California Training Trust. The equipment is deleted from the  
15 Southern California Training Trust inventory. It is transferred to the Southern  
16 Nevada Training Trust, without compensation from Southern Nevada Training  
17 Trust to Southern California Training Trust.

18 90. Southern California Training Trust training personnel and equipment  
19 were used to transfer equipment from Southern California Training Trust to  
20 Southern Nevada Training Trust. Southern California Training Trust personnel,  
21 including Peter Majich, an employee of Southern California Training Trust, applied  
22 for and received DOT permits to transfer “wide load” equipment. Peter Majich  
23 operated the lead vehicle during the transport of large construction equipment to  
24 Southern Nevada Training Trust. When equipment is deleted from the Southern  
25 California Training Trust inventory, it is not returned to Southern California  
26 Training Trust. However, some equipment is also “loaned” from Southern  
27 California Training Trust to Southern Nevada Training Trust for periods of time  
28

1 including one month to many years. In these cases, fair market rental value is not  
2 paid by Southern Nevada Training Trust to Southern California Training Trust.

3 91. Employees of Southern California Training Trust create the  
4 curriculum, testing, interview applicants and actually instruct and/or teach  
5 apprentices in Southern Nevada. However, Southern Nevada Training Trust does  
6 not repay Southern California Training Trust for the use of its employees that  
7 remain at all times on the Southern California Training Trust payroll. Southern  
8 Nevada Training Trust also fails to share in the cost of benefits provided to  
9 instructors on the payroll of Southern California Training Trust.

10 92. Burt Tolbert is the Administrator for both the Southern California  
11 Training Trust and the Southern Nevada Training Trust. But Tolbert remains at all  
12 time exclusively on Southern California Training Trust payroll. No compensation  
13 for Tolbert is listed on Southern Nevada Training Trust's DOL 5500 filings or IRS  
14 form 990. The total value of Tolbert's compensation package is approximately  
15 \$200,000 per year, including salary and benefits.

16 93. Bills for Southern Nevada Training Trust are received by Southern  
17 California Training Trust. Tolbert reviews those bills. Tolbert then approves those  
18 bills for payment and sends them to office staff to process and pay. There is no  
19 system in place between the training centers in California and Nevada to bill  
20 Southern Nevada Training Trust for services provided by Southern California  
21 Training Trust. In substance, two separate Trusts are operated out of a single  
22 office, without fair allocation of the expenses and overhead between the Trusts.

23 94. Vehicles owned by Local 12 or the Southern California Training Trust  
24 training center that were scheduled to be sold at auction are often pulled from sale  
25 and purchased at a sub-market rate price from the auction house. The vehicles are  
26 then restored by staff members at the Southern California Training Trust Whittier  
27 training center. All replaced parts are charged to other equipment numbers. The  
28 time required for staff members to restore the vehicles is not paid to the Southern

1 California Training Trust. The vehicle ownership is then transferred to the union  
2 staff member that purchased the vehicle at the sub-market rate. Administrators,  
3 Board Members, and upper management of Local 12, including line officers, have  
4 taken advantage of this arrangement, thereby embezzling funds from Southern  
5 California Training Trust. Many of those same individuals receive free service on  
6 their personal vehicles at the Southern California Training Trust Whittier training  
7 center.

8 95. Union leadership, including Waggoner, store personal vehicles at the  
9 Southern California Training Trust Whittier training center without paying fair  
10 rental compensation for use of the space, thus providing value to union officers that  
11 they are not entitled to receive. For example, Waggoner stores a vintage Cadillac  
12 at the Southern California Training Trust Whittier training center. Special devices  
13 were constructed to allow staff to move Waggoner's vehicle when they require  
14 access to bay space it occupies.

15 96. As of about November 2012 or December 2012, records are being  
16 destroyed at Southern California Training Trust's Whittier training center by staff.  
17 The records being destroyed are more recent records, rather than the very old files  
18 that date back to the 1970's.

19  
20 **4. Waggoner Engaged in Self-Dealing by Causing Local 12 to**  
21 **Hire Patty Waggoner's Company, Spacemaker Tenant**  
22 **Improvements, to Work on the Local 12's Headquarters and**  
23 **Other Property**

24 97. Patricia Morrison Waggoner, the wife of William Waggoner, is a  
25 Senior Vice-President, marketing Taft-Hartley investments at Amalgamated Bank  
26 of Pasadena, a division of Amalgamated Bank of New York. Patricia Morrison  
27 Waggoner was an officer of the contracting company, Spacemaker Tenant  
28 Improvements. Spacemaker Tenant Improvements is a California licensed



1 contractor. According to the California State Contractor license Board, the holder  
2 of the license was Stanley W. Smith, and Patty Waggoner was the President. Later,  
3 records show that Richard A. Marker, currently a lawyer at the Green & Marker  
4 law firm, was also an officer and may be the sole remaining officer.

5 98. At least as far back as 1980, Patricia Morrison Waggoner, the wife of  
6 William Waggoner, through her contracting company Spacemaker Tenant  
7 Improvements, performed work on Local 12 facilities and facilities owned by Local  
8 12's General Pension Fund. Patricia Waggoner is a member of Local 12.

9 99. At all times relevant, Spacemaker Tenant Improvements had offices in  
10 buildings owned by Local 12's General Pension Fund, including 301 N. Lake  
11 Avenue, Pasadena, California 91101 and 3699 Wilshire Blvd., Los Angeles,  
12 California 90010.

13 100. The contracting services provided by Spacemaker Tenant  
14 Improvements to Local 12 facilities and facilities owned by Local 12's General  
15 Pension Fund were not provided on the basis of arms-length bidding processes.  
16 Rather, Spacemaker Tenant Improvements received those construction jobs simply  
17 by virtue of Patricia Waggoner's marriage to William Waggoner. Moreover, even  
18 had they used a bidding process, Spacemaker Tenant Improvements, by virtue of  
19 the relationship between the Waggoners, could not have performed that work.

20 101. Patricia Waggoner has also used her position as the wife of William  
21 Waggoner to market and obtain business for Amalgamated Bank.

22 102. Waggoner's LM-30 filing identifies Patricia Waggoner as the "First  
23 Vice-President" of Amalgamated Bank (in fact, she is a Senior Vice-President of  
24 Marketing & Sales, Western Region). Her annual salary is listed as \$141,057, but  
25 Waggoner states that there are no conflicts of interest. Waggoner claims in the  
26 filing that the value of services provided to Local 12 or associated funds is "not  
27 readily available."  
28

1           103. On March 8, 2011, William Waggoner caused the borrowing of  
2 \$50,000,000 from Massachusetts Mutual Life Insurance Company, secured by an  
3 asset owned by Local 12's Pension Fund. One such asset is Vintage Park East,  
4 LLC. Vintage Park East, LLC purported to encumber a number of real properties  
5 held by Vintage Park East, LLC. However, one of the properties, a parcel  
6 designated as APN 0238-174-42-0000 is listed in the San Bernardino County  
7 Clerk's records as owned by the San Bernardino County Flood Control District.

8           104. The loan funds were then deposited in Amalgamated Bank for the  
9 purpose of preventing the collapse of Amalgamated Bank. Waggoner and property  
10 manager Wilbur L. Ross, principal of Invesco, and Ron Bukle, each deposited  
11 funds in Amalgamated Bank for the sole purpose of artificially providing adequate  
12 liquidity to Amalgamated Bank.

13           105. On August 31, 2011, a Consent Decree was issued by the Federal  
14 Deposit Insurance Corporation. Without the assets deposited by Waggoner, Ross  
15 and Burkle in March 2011, Amalgamated would not have survived the FDIC's  
16 audit and review as an autonomous entity.

17           106. Local 12's Pension Fund is currently obligated as a result of the loan to  
18 prop up Amalgamated Bank. In the 2011 LM-2 filing by Local 12's Pension Fund,  
19 the Fund listed an obligation of \$50,000,000, at 4.46% per annum, and an interest  
20 expense of \$706,167 for less than a full year of interest. \$185,833 per month is the  
21 interest expense. April 1, 2018 is the maturity date, at which time the full amount  
22 of principal is due. Due to Amalgamated's weak financial condition, it is unlikely  
23 that the \$50,000,000 will be available for withdrawal from Amalgamated.  
24 Members of Local 12 are paying \$2,229,996 per year out of their General Pension  
25 Fund for the sole purpose of propping up the bank at which William Waggoner's  
26 wife, Patty Waggoner, works as First Vice President. Page 102 of the 2011 Form  
27 5500 filed with the DOL by the Local 12 Pension Fund provides information about  
28 the terms of the Note, identified as Note 10.

1  
2           **5.       Waggoner Diverted Valuable Assets in the Form of Room**  
3                           **Space in the Washington Court Hotel**

4           107.   Local 12 Pension Fund (OEFI) owns several buildings, including the  
5 Washington Court Hotel in Washington, D.C. The Harbaugh company, owned by  
6 George Harbaugh, manages day-to-day operations. The hotel converted two rooms  
7 into an apartment. The apartment is occupied by Joel Harbaugh, the son of George  
8 Harbaugh. The cost of converting the rooms was charged to OEFI. The conversion  
9 was never voted on by the trustees of the Pension Fund. The Pension Fund lost  
10 revenue in the form of (1) conversion costs, and (2) lost room rental revenue,  
11 which, in the Washington, D.C. location, can exceed many hundreds of dollars a  
12 night. Joel Harbaugh even received hotel meals in his room.

13  
14           **E.       IUOE’s and Local 12’s Leadership Used Threats of Physical and**  
15                           **Economic Violence, and Suborned Perjury, to Suppress**  
16                           **Investigations and Usurp Control Over Local 12**

17           **1.       David Casey Was Beaten at the Direction of Waggoner for**  
18                           **Running Against Waggoner for Business Manager**

19           108.   David Casey, a member, attended Local 12 meetings. At Local 12  
20 meetings, members are supposedly given the right to make statements or ask  
21 questions at an open microphone. In an around 2005, Mr. Casey attempted to  
22 speak up at a meeting. Two individuals assaulted Mr. Casey immediately after the  
23 meeting, beating him violently. The assailants were the nephew and the son of the  
24 District 7 Representative. David Casey filed a complaint with the Federal Bureau  
25 of Investigation about the assault.

1                   **2. Waggoner Prevents Opposition Voices From Speaking at**  
2                   **Any Meetings**

3           109. In and around about 2007, Waggoner directed Chris Norton, one of his  
4 enforcers, to “cover the microphone” and keep anyone who opposed Waggoner  
5 from speaking at any general membership meetings. At one meeting, Chris Norton  
6 was involved in a physical altercation with David Casey to prevent Casey from  
7 speaking at the meeting, particularly about misuse of membership assets related to  
8 the purchase of the Cesna jet.

9           110. On September 18, 2012, Mr. Waggoner and the entire leadership team  
10 attended a District 5 meeting. At that meeting, Mr. Waggoner told Rodney Karr,  
11 who had sent Waggoner a letter raising issues, that “if you don’t stop this shit,  
12 you’re going to get hurt.” Generally, Waggoner and/or his co-conspirators at  
13 general membership and District meetings assign large individuals to take up  
14 positions near microphones to intimidate any individual that might attempt to speak  
15 up in opposition.

16  
17                   **3. Local 12 Uses Its Job Referral Service to Suppress**  
18                   **Opposition**

19           111. Local 12 operates an exclusive hiring hall. All jobs for Local 12  
20 members are dispatched through the centralized hiring hall. Waggoner and Local  
21 12’s leadership use this arrangement to intimidate members that might express  
22 opposition to the activities of Local 12’s leadership. The fear of economic  
23 retaliation is extremely high. Some members have children that are also members  
24 of Local 12 and will not speak out due to fear of physical and economic harm  
25 directed at their children.

1                   **4. Business Agents for Local 12 Carry Guns That Have Had**  
2                   **Serial Numbers Removed**

3           112. Waggoner requires Business Agents to carry firearms. The weapons  
4 provided to Business Agents have had their serial numbers removed in some cases.  
5 Waggoner negotiated a deal with Dwight Helmick, the former California Highway  
6 Patrol Commissioner, under which Local 12 would pay \$25,000 to the surviving  
7 spouse or family members of any California Highway Patrol officer seriously  
8 injured or killed in the line of duty. In exchange, Waggoner received a letter from  
9 Dwight Helmick, authorizing Business Agents to stop at the side of road where, if  
10 questioned, they could produce the letter that instructed the investigating Highway  
11 Patrol Officers to take no action.  
12

13           **F. Defendants Diverted Caremark Reimbursements From Local 12's**  
14           **Health & Welfare Fund to IUOE and Purchased PBM Services**  
15           **That Were Well Above Competitive Rates From Other Vendors**

16           113. Vince Giblin was Chairman of the Board for Horizon Blue Cross, a  
17 paid position with a salary in excess of \$200,000, at the time he became General  
18 President of the IUOE. Because of his dual roles, Giblin was able to require use of  
19 Blue Cross as the healthcare benefits provider to local unions, including Local 12.  
20 Blue Cross utilizes Caremark as its Prescription Benefits Manager (“PBM”).  
21 Because of the number of members utilizing the Blue Cross/Caremark benefit,  
22 members are entitled to receive a rebate from Caremark, reflecting the members’  
23 substantial buying power. The Caremark rebates should have been paid out to each  
24 local union. Instead, they were paid, in part, to IUOE. IUOE, in turn, failed to  
25 account to Local 12 and other local unions for the rebates they should have  
26 received.

27           114. The contract with Caremark is held by IUOE, not Local 12. Terms are  
28 negotiated by Trivantage, an entity retained by IUOE, not the Health & Welfare

1 Fund at Local 12. Fees are charged to Local 12's Health & Welfare fund to pay  
2 Trivantage, even though Trivantage is not under contract with Local 12.

3 115. In 2009, Caremark reached a settlement in *New England Carpenters* as  
4 a result of allegations of overcharging third party payors, such as Local 12's Health  
5 & Welfare Fund. In response to being forced by this settlement to reimburse third  
6 party payors for overcharges, Caremark asserted a right to unilaterally increase  
7 rates charged to Local 12's Health & Welfare Fund for PBM services. Caremark  
8 contended that any challenge to their rate increase constituted a failure to negotiate  
9 "in good faith." Local 12, which was not a party to the contract with Caremark,  
10 was left in a position adverse to both IUOE and Caremark. The Trustees of Local  
11 12's Health & Welfare Fund acquiesced, in violation of their fiduciary duties to  
12 members, to this extortionate pricing by Caremark, the PBM imposed on them by  
13 Giblin and IUOE. IUOE First Vice President Waggoner cooperated with Giblin's  
14 transaction that amounted to a breach of Giblin's fiduciary duties, rather than risk  
15 losing his access to the power and resources available to the Western States  
16 Director of IUOE.

17 116. Caremark's rates for PBM services are significantly higher than the  
18 rates charged by comparable competitors. For example, Local 3, another IUOE  
19 Local in California, put out the PBM package for competitive bid. Caremark's bid  
20 was fourth by price. Caremark's bid was roughly \$4 million higher than the winner  
21 of the bidding process. Giblin was told that Medco had won the bid process, so  
22 Giblin was aware that Caremark's rates were significantly higher than other  
23 options, and continued insistence on the use of Caremark was detrimental to  
24 members and contrary to fiduciary obligations of Fund trustees and Union  
25 leadership to their members. Local 3 and Local 12 are of similar size, thus the bid  
26 experience by Local 3 is similar to what Local 12 could have obtained if it had not  
27 acquiesced to Giblin.  
28

1           117. In the case of Local 3, Giblin forced Local 3 to put the PBM service  
2 out for rebid after Giblin received copies of the bids. With inside information  
3 provided by Giblin, Caremark was able to underbid Medco by nearly \$2 million,  
4 and Local 3 was forced to award the contract to Caremark. Once Caremark had the  
5 contract, it raised its rates back to the level comparable with its initial bid. Local 3  
6 is now paying PBM rates that are roughly 17% higher than they would have been if  
7 IUOE had not interfered in a competitive bidding process.

8  
9           **G. Local 12 Allows Employers Contracted With Local 12 to Operate**  
10           **Double-Breasted, Thereby Depriving Members of Protections and**  
11           **Benefits Available Under Union Agreements**

12           118. Union contracts with employers hiring Local 12 members require, at  
13 minimum, that employers unionized through Local 12 must remain unionized in  
14 subsequent labor contracts with Local 12. The Business Manager, Waggoner, was  
15 responsible for supervising all business representatives and ensuring that all  
16 collective bargaining agreements for Local 12 were negotiated, fully executed, and  
17 that all terms under the collective bargaining agreements were enforced.

18           119. Instead, employers subject to collective bargaining agreements operate  
19 “double breasted.” In labor parlance, “double breasted” refers to the side-by-side  
20 operation of unionized and non-unionized workforces. For example, Morley  
21 Builders is signatory to a Local 12 collective bargaining agreement, but its alter  
22 ego, Benchmark Construction, is operated as though it is a non-unionized entity.  
23 Benchmark Construction uses heavy equipment operators. LKR Group is signatory  
24 to a Local 12 collective bargaining agreement, but its alter ego, Group Delta  
25 Consultants, Inc. , is operated as though it is a non-unionized entity. Group Delta  
26 Consultants, Inc. uses heavy equipment operators. Twining Laboratories is  
27 signatory to a Local 12 collective bargaining agreement, but its alter ego, Quality  
28 Assurance International, is operated as though it is a non-unionized entity. The

1 operators of Twining Laboratories and Quality Assurance International are husband  
2 and wife, with the husband owning the former and the wife owning the later to  
3 conceal double-breasted activity. Quality Assurance International uses heavy  
4 equipment operators. Smith-Emery also operates double-breasted. The unionized  
5 portion of Smith-Emery's operations, on information and belief, is limited to about  
6 30% of Smith-Emery's total operations.

7  
8 **H. Steve Montrie, Convicted of Mere Vehicular Manslaughter,**  
9 **Remains a Business Agent Despite Killing an Individual While**  
10 **Driving a Union Vehicle Under the Influence of Alcohol**

11 120. In December 2008, Steve Montrie killed an individual while driving a  
12 union vehicle under the influence of alcohol. Ron Sikorski, the President of the  
13 Union, was also present. Using its influence with local officials, Local 12 secured  
14 a sentence of vehicular manslaughter, rather than gross vehicular manslaughter, for  
15 Montrie. He was sentenced to three years and served about 18 months. Previously-  
16 ordered restitution to the family of victim, in the amount of about \$24,881.99 to  
17 one family member and \$32,829.05 to another, was rescinded.

18 121. Immediately after his release, Mr. Montrie was employed as a business  
19 representative by Local 12, in violation of Section 504 of the LMRDA. Waggoner  
20 was aware of the prohibition on hiring individuals convicted of crimes inflicting  
21 great bodily injury or death, but nevertheless hired him. Waggoner recently  
22 campaigned for the expungement of Montrie's conviction so that Montrie could  
23 serve as an officer, confirming Waggoner's awareness of the restrictions imposed  
24 by Section 504.

25  
26 **I. Miscellaneous Breaches of Fiduciary Duties**

27 122. Employees of various Funds associated with Local 12 were instructed  
28 to fabricate receipts for goods and services not received when they traveled for



1 business purposes but did not exhaust the expense monies provided in advance of  
2 their travels. The purpose of this instruction was two-fold. First, the  
3 administration of the funds was so deficient that the procedures were not in place to  
4 receive back unused funds. The instruction eliminated the need to correct those  
5 deficiencies. Second, when Fund employees complied with this instruction, it was  
6 believed by Defendants that engaging in this improper activity, though at the  
7 direction of superiors, would prevent employees from discussing the many  
8 improprieties they observed. In other words, Defendants viewed these excess funds  
9 as “hush” monies to buy the silence of potential whistle-blowers.

10 123. Defendants also utilized the Training Trusts to defraud the State of  
11 California out of education funds. Apprentice members were sometimes instructed  
12 to repeat classes multiple times for the purpose of allowing Defendants to defraud  
13 California out of monies distributed through the Community College system.

#### 14 15 **V. CLASS ACTION ALLEGATIONS**

16 124. Plaintiffs bring this action individually, as well as on behalf of each  
17 and all other persons similarly situated in a concerted effort to improve wages and  
18 working conditions for other, similarly situated employees, and thus, seek class  
19 certification under Fed. R. Civ. Proc. 23.

20 125. The proposed Class consists of and is defined as:

21 All individuals that are or have been members of the International  
22 Union of Operating Engineers Local 12 at any time within the four  
23 years prior to the filing of this action. Excluded from the Class are all  
24 Defendants in this action, and all of their current and former officers,  
25 directors, management employees, successors, and wholly or partly  
26 owned subsidiaries or affiliated companies; Class Counsel and their  
27 employees and members; all persons within the third degree of  
28 relationship to any of the excluded individuals and any judge who  
hears or decides any matter in this litigation.

126. The “agency fee” sub-class is defined as follows:

All member of the Class that are “agency fee” members of Local 12,  
including all public entity employees who are members of Local 12 for  
purposes of collective bargaining representation.

1           127. Plaintiffs reserve the right to establish sub-classes, or modify any Class  
2 or sub-Class definition, as appropriate.

3           128. At all material times, Plaintiffs were or are members of the Class.

4           129. There is a well-defined community of interest in the litigation and the  
5 class is readily ascertainable:

- 6           (a) Numerosity: The members of the class (and each subclass, if  
7 any) are so numerous that joinder of all members would be  
8 unfeasible and impractical. The membership of the entire class  
9 is unknown to Plaintiffs at this time, however, the class is  
10 estimated to be greater than 10,000 individuals and the identity  
11 of such membership is readily ascertainable by inspection of  
12 Defendants' records.
- 13           (b) Typicality: Plaintiffs are qualified to, and will, fairly and  
14 adequately protect the interests of each class member with  
15 whom there is a shared, well-defined community of interest.  
16 Plaintiffs' claims are typical of all class members' claims. For  
17 example, Plaintiffs were members of Local 12 within the class  
18 period, like all other Class members, and Plaintiffs were injured  
19 by manipulation of Local 12 through racketeering activity as all  
20 other Class members were.
- 21           (c) Adequacy: Plaintiffs are qualified to, and will, fairly and  
22 adequately protect the interests of each class member with  
23 whom there is a shared, well-defined community of interest and  
24 typicality of claims, as demonstrated herein. Plaintiffs  
25 acknowledge that Plaintiffs have an obligation to make known to  
26 the Court any relationship, conflicts or differences with any  
27 class member. Plaintiffs' attorneys, the proposed class counsel,  
28 are versed in the rules governing class action discovery,

1 certification, and settlement.

- 2 (d) Superiority: A Class Action is superior to other available  
3 methods for the fair and efficient adjudication of the  
4 controversy, including consideration of:
- 5 1) The interests of the members of the class in individually  
6 controlling the prosecution or defense of separate actions;
  - 7 2) The extent and nature of any litigation concerning the  
8 controversy already commenced by or against members of  
9 the class;
  - 10 3) The desirability or undesirability of concentrating the  
11 litigation of the claims in the particular forum; and
  - 12 4) The difficulties likely to be encountered in the  
13 management of a class action.
- 14 (e) Public Policy Considerations: Labor organizations are intended  
15 to protect employees from the potential for employer abuse of  
16 power, but when the parent union conspires with employers, a  
17 local union is powerless to protect itself from abuses origination  
18 from multiple directions. Current union members are often  
19 afraid to assert their rights out of fear of direct or indirect  
20 retaliation. Former union members know the reputation of large  
21 labor organizations as violent and dangerous when challenged.  
22 Class actions provide the class members who are not named in  
23 the complaint with a type of anonymity that allows for the  
24 vindication of their rights at the same time as their privacy and  
25 safety is protected.

26 130. There are common questions of law and fact as to the class (and each  
27 subclass, if any) that predominate over questions affecting only individual  
28 members, including but not limited to:

- 1 (a) Whether Defendants engaged in racketeering;  
2 (b) Whether Defendants violated the LMRDA;  
3 (c) Whether Defendants unlawfully conspired to engage in  
4 racketeering;  
5 (d) Whether Defendants breached fiduciary obligations to the Class;  
6 and,  
7 (e) The appropriate amount of damages, restitution, or monetary  
8 penalties resulting from Defendants' violations of law.

9 131. This Court should permit this action to be maintained as a class action  
10 pursuant to Fed. R. Civ. P. 23 because:

- 11 (a) The questions of law and fact common to the class predominate  
12 over any question affecting only individual members;  
13 (b) A class action is superior to any other available method for the  
14 fair and efficient adjudication of the claims of the members of  
15 the class;  
16 (c) The members of the class are so numerous that it is impractical  
17 to bring all members of the class before the Court;  
18 (d) Plaintiff, and the other members of the class, will not be able to  
19 obtain effective and economic legal redress unless the action is  
20 maintained as a class action;  
21 (e) There is a community of interest in obtaining appropriate legal  
22 and equitable relief for the statutory violations, and in obtaining  
23 adequate compensation for the damages and injuries for which  
24 Defendants are responsible in an amount sufficient to adequately  
25 compensate the members of the class for the injuries sustained;  
26 (f) Without class certification, the prosecution of separate actions  
27 by individual members of the class would create a risk of:  
28 1) Inconsistent or varying adjudications with respect to

- 1 individual members of the class which would establish  
 2 incompatible standards of conduct for Defendants; and/or  
 3 2) Adjudications with respect to the individual members  
 4 which would, as a practical matter, be dispositive of the  
 5 interests of other members not parties to the adjudications,  
 6 or would substantially impair or impede their ability to  
 7 protect their interests, including but not limited to the  
 8 potential for exhausting the funds available from those  
 9 parties who are, or may be, responsible Defendants; and,  
 10 (g) Defendants have acted or refused to act on grounds generally  
 11 applicable to the class, thereby making final injunctive relief  
 12 appropriate with respect to the class as a whole.

13 132. Plaintiffs contemplate the eventual issuance of notice to the proposed  
 14 members of the class that would set forth the subject and nature of the instant  
 15 action. The Defendants' own business records may be utilized for assistance in the  
 16 preparation and issuance of the contemplated notices. To the extent that any  
 17 further notices may be required, Plaintiff would contemplate the use of additional  
 18 mailings.

## 20 VI. CLAIMS FOR RELIEF

### 22 FIRST CLAIM FOR RELIEF

23 (Violation of 18 U.S.C. § 1962(c) of the Racketeer Influenced and Corrupt

24 Organizations Act [18 U.S.C. §§ 1961-68])

25 By Plaintiffs against All Defendants

26 133. Plaintiffs re-allege, and incorporate by reference, each and every  
 27 paragraph herein.  
 28

1           134. Defendants are each a “person” as that term is defined by 18 U.S.C.  
2 section 1961(3).

3           135. Local 12 constitutes an enterprise as that term is defined by 18 U.S.C.  
4 § 1961(4) (hereinafter known as the “Local 12 ENTERPRISE”).

5           136. The LOCAL 12 ENTERPRISE is engaged in, and its activities affect,  
6 interstate and foreign commerce.

7           137. The DEFENDANTS are, and at all relevant times were, associated  
8 with the LOCAL 12 ENTERPRISE.

9           138. As described herein, the DEFENDANTS, beginning at least as early as  
10 2000, and continuing to the present, knowingly and willfully set into motion an  
11 over-arching scheme to defraud the LOCAL 12 ENTERPRISE out of revenues,  
12 cost savings, and membership. The primary goal in all instances was the unlawful  
13 enrichment of the DEFENDANTS through activities of the LOCAL 12  
14 ENTERPRISE. Numerous kickback schemes enabled employers to avoid  
15 contractual obligations while providing bribes to Defendants. Assets in trust funds  
16 were co-mingled and diverted to personal uses. To accomplish the over-arching  
17 goal of fraudulent and unlawful enrichment, the DEFENDANTS engaged in and/or  
18 authorized a variety of unlawful activities, including the use of threats of economic  
19 harm and violence to seize control of Local 12 and prevent discovery of the many  
20 asset diversion and kickback schemes enriching the leadership of the IUOE.

21           139. Rights guaranteed under the LMRDA are protectable property interests  
22 held by Plaintiffs and other Class members. Plaintiffs’ and Class members’ rights  
23 under the LMRDA are extortable in violation of the Hobbs Act.

24           140. Assets intended to benefit Plaintiffs and Class members when  
25 deposited into trust account, including the Health & Welfare Fund and others,  
26 represent tangible assets subject to conversion in violation of the Hobbs Act.

27           141. Plaintiff and Class members were and are aware of ties between the  
28 leadership of IUOE and organized crime syndicates in New York and New Jersey.

1 As a result of that awareness, threats of economic and physical harm directed at the  
2 Plaintiffs and other Class members were viewed as highly credible and elicited  
3 substantial fear and concern amongst Plaintiffs and other Class members. In fact,  
4 members of Local 12 were physically beaten for speaking up against leadership of  
5 Local 12.

6 142. Beginning at least as early as 2000 and continuing to the present, the  
7 DEFENDANTS, in furtherance of and for the purpose of executing the schemes  
8 and artifices to defraud and divert Local 12 resources described herein, on  
9 numerous occasions engaged in the extortion of rights guaranteed to Plaintiffs and  
10 other Class members under the LMRDA and other laws. Each such extortionate  
11 activity in connection with the described schemes and artifices to defraud and  
12 divert Local 12 resources constitutes a distinct violation of the Hobbs Act, 18  
13 U.S.C. § 1951, and further constitutes racketeering activity as that term is defined  
14 in 18 U.S.C. § 1961(1)(b). The unlawful extortion of property and rights secured  
15 under the LMRDA and other laws include, but is not limited to, the following acts  
16 whereby the DEFENDANTS:

- 17 (a) Obtained the voting rights of Plaintiffs and other Class members  
18 by utilizing threats of economic and physical harm to control the  
19 winners of elections at Local 12;
- 20 (b) Actively prevented members from speaking out at meetings  
21 against leadership;
- 22 (c) Obtained assets belonging rightfully to Plaintiffs and other Class  
23 members by utilizing threats of economic and physical harm to  
24 control Local 12's ability to investigate asset diversions.

25 143. Beginning at least as early as 2000 and continuing to the present, the  
26 DEFENDANTS, in furtherance of and for the purpose of executing the schemes  
27 and artifices to defraud described herein, on numerous occasions used and caused  
28 to be used the United States Mails and other commercial interstate carriers by both

1 placing and causing to be placed letters and other mailable matter in the authorized  
2 depositories of such carriers and receiving and causing to be received letters and  
3 other matter from such carriers. Each such use of the United States mails and other  
4 carriers in connection with the described schemes and artifices to defraud  
5 constitutes a separate and distinct violation of 18 U.S.C. § 1341, relating to mail  
6 fraud, and further constitutes racketeering activity as that term is defined in 18  
7 U.S.C. § 1961(1)(b). The unlawful use of the mails includes, but is not limited to,  
8 the following:

- 9 (a) Fraudulent mailing from Local 12's leadership indicating that  
10 Local 12's funds were in sound financial condition.
- 11 (b) Fraudulent mailings concerning illegal transfers of assets  
12 between funds, including transfers of heavy equipment deleted  
13 from fund inventories.
- 14 (c) Fraudulent mailings concerning the source of "in-kind" political  
15 contributions.

16 144. By issuing threats of physical assault, as described above, Defendants  
17 engaged in racketeering activity as defined by 18 U.S.C. § 1961(1)(A).

18 145. Beginning at least as early as 2000 and continuing to the present, the  
19 DEFENDANTS, in furtherance of and for the purpose of executing the schemes  
20 and artifices to defraud described herein, on numerous occasions used and caused  
21 to be used wire communications in interstate and foreign commerce by both  
22 making and causing to be made wire communications. Each such use of a wire  
23 communication in connection with the described schemes and artifices to defraud  
24 constitutes a separate and distinct violation of 18 U.S.C. § 1343, relating to wire  
25 fraud, and further constitutes racketeering activity as that term is defined in 18  
26 U.S.C. § 1961(1)(B). The unlawful use of wire communications includes, but is  
27 not limited to, the following:  
28



- 1 (a) False online information regarding the integrity of funds  
2 associated with Local 12;
- 3 (b) Acceptance via wire, on occasions too numerous to identify  
4 herein, and at times known exclusively by Defendants, of  
5 fraudulently obtained kickback payments from employers.

6 146. Beginning at least as early as 2000 and continuing to the present, the  
7 DEFENDANTS, in furtherance of and for the purpose of executing the schemes  
8 and artifices to defraud described herein, on numerous occasions knowingly  
9 engaged in and caused to occur monetary transactions in criminally derived  
10 property with value in excess of \$10,000. The transactions were accomplished by  
11 depositing, withdrawing or transferring funds by, through, or to a financial  
12 institution, as such an institution is defined by 18 U.S.C. § 1956. Funds used in  
13 such transactions were derived from offenses listed in 18 U.S.C. § 1961(1),  
14 including, but not limited to, funds derived from mail fraud, in violation 18 U.S.C.  
15 § 1341, and wire fraud, in violation of 18 U.S.C. § 1343. Each such monetary  
16 transaction in connection with the described schemes and artifices to defraud  
17 constitutes a separate and distinct violation of 18 U.S.C. § 1957, relating to  
18 unlawful monetary transactions and money laundering, and further constitutes  
19 racketeering activity as that term is defined in 18 U.S.C. § 1961(1)(b). The  
20 unlawful monetary transactions include, but are not limited to, the following:

- 21 (a) Acceptance of payments by Waggoner and his co-conspirators  
22 from employers, at times known exclusively to Defendants;
- 23 (b) Acceptance of payments by Waggoner for the sale of real estate  
24 belonging to Local, at times known exclusively to Defendants;
- 25 (c) Deposits by Waggoner at Amalgamated Bank that were diverted  
26 from Local 12 fund assets and used to prop up Amalgamated  
27 Bank while under investigation by the FDIC.  
28

1           147. Beginning as least as early as 2000, and continuing to the present, the  
2 DEFENDANTS, in furtherance of and for the purpose of executing the schemes  
3 and artifices to defraud described herein, on numerous occasions knowingly  
4 traveled in interstate commerce and used facilities of interstate commerce  
5 (including, but not limited to, the mails) with the intent to promote, manage,  
6 establish, carry on, or facilitate the promotion, management, establishment or  
7 carrying on of unlawful activities (including violations of 18 U.S.C. § 1957), and  
8 thereafter performed or attempted to perform such violations. Each such  
9 interaction with facilities of interstate commerce in connection with the described  
10 schemes and artifices to defraud constitutes a separate and distinct violation of 18  
11 U.S.C. section 1952 (the “Travel Act”), relating to travel in interstate commerce  
12 with intent to facilitate certain unlawful activities, and further constitutes  
13 racketeering activity as that term is defined in 18 U.S.C. § 1961(1)(B). These  
14 violations included habitual interstate travel by the DEFENDANTS to and from  
15 Local 12 for the purpose of delivering threats to ensure that schemes for fraudulent  
16 profiteering could continue unabated.

17           148. The DEFENDANTS’ repeated violations of 18 U.S.C. §§ 1341, 1343,  
18 1951, 1952 and 1957 extended over a period of years and involved distinct and  
19 independent criminal acts. Those criminal acts were neither isolated or sporadic  
20 events, but involved the regular and repeated violation as a way of doing business  
21 and to accomplish the DEFENDANTS’ desired ends in the course of the continuing  
22 business of the LOCAL 12 ENTERPRISE. These predicate acts were related to  
23 each other by virtue of (a) common participants, (b) similarly situated victims, (c)  
24 common methods of commission through the habitual dissemination of fraudulent  
25 and misleading information, and (d) the common purpose and common result  
26 defrauding and looting the LOCAL 12 ENTERPRISE, all while enriching the  
27 DEFENDANTS. As such, this conduct constitutes a pattern of racketeering  
28 activity within the meaning of 18 U.S.C. § 1961(5).

1           149. The fraudulent, unlawful and improper activities of the  
2 DEFENDANTS threatens to continue. Based upon the past pattern of activity,  
3 other Local Unions either have or will likely be defrauded by the DEFENDANTS.  
4 Based upon the past pattern of activity, the DEFENDANTS will likely continue to  
5 defraud Local Unions like Local 12. Furthermore, the DEFENDANTS are able,  
6 based upon their managerial and controlling positions, to replace management in  
7 Local Unions, which could thereafter be defrauded and looted without consequence  
8 in a manner similar to the schemes and artifices outlined herein.

9           150. The DEFENDANTS all violated or aided violation of 18 U.S.C. §  
10 1962(c) by directly or indirectly conducting or participating in the conduct of the  
11 affairs of the LOCAL 12 ENTERPRISE through a pattern of racketeering activity.

12           151. The DEFENDANTS' violation of 18 U.S.C. § 1962(c) caused the  
13 Plaintiffs and the Class to suffer direct injury in amounts as may be shown  
14 according to proof at time of trial.

15  
16                                   **SECOND CLAIM FOR RELIEF**  
17           **(Violation of 18 U.S.C. § 1962(d) of the Racketeer Influenced and Corrupt**  
18                                   **Organizations Act [18 U.S.C. §§ 1961-68])**  
19                                   **By Plaintiffs against All Defendants**

20           152. Plaintiffs re-allege, and incorporate by reference, each and every  
21 paragraph herein.

22           153. Defendants are each a "person" as that term is defined by 18 U.S.C.  
23 section 1961(3).

24           154. Local 12 constitutes an enterprise as that term is defined by 18 U.S.C.  
25 § 1961(4) (hereinafter known as the "Local 12 ENTERPRISE").

26           155. The LOCAL 12 ENTERPRISE is engaged in, and its activities affect,  
27 interstate and foreign commerce.  
28

1           156. From at least 1994 and continuing through to the present, Defendants,  
2 being persons employed by or associated with the LOCAL 12 ENTERPRISE at all  
3 relevant times herein, unlawfully and willfully combined, conspired, confederated  
4 and agreed each with the other to violate 18 U.S.C. § 1962(c), that is, to conduct  
5 and participate, directly and indirectly, in the conduct of the affairs of the LOCAL  
6 12 ENTERPRISE through a pattern of racketeering activity, all in violation of 18  
7 U.S.C. § 1962(d). The times and locations and forms of such agreements constitute  
8 information uniquely within the control of the DEFENDANTS.

9           157. As part of this conspiracy, the DEFENDANTS each personally plotted,  
10 conspired and agreed to commit two or more fraudulent and illegal racketeering  
11 acts and thereby conducted and agreed to conduct the affairs of the LOCAL 12  
12 ENTERPRISE through the pattern of racketeering activity in violation of 18 U.S.C.  
13 § 1962(c) described generally herein and specifically in the First Claim for Relief.

14           158. In furtherance of the conspiracy and to effect the objects thereof, the  
15 DEFENDANTS committed and caused to be committed a series of overt acts,  
16 including, but not limited to, the following:

- 17           (a) Habitual interstate travels by the Defendants to and from Local  
18 12, for the purpose of delivering threats to Plaintiffs and  
19 ensuring that Defendants asset diversion and kickback schemes  
20 continued unabated and unchallenged;
- 21           (b) Obtained the voting rights of Plaintiffs and other Class members  
22 by utilizing threats of economic and physical harm to control the  
23 winners of elections at Local 12;
- 24           (c) Obtained assets belonging rightfully to Plaintiffs and other Class  
25 members by utilizing threats of economic and physical harm to  
26 control Local 12's ability to investigate asset diversions;
- 27           (d) Actively prevented members from speaking out at meetings  
28 against leadership;

- 1 (e) Fraudulent mailing from Local 12's leadership indicating that  
2 Local 12's funds were in sound financial condition.
- 3 (f) Fraudulent mailings concerning illegal transfers of assets  
4 between funds, including transfers of heavy equipment deleted  
5 from fund inventories.
- 6 (g) Fraudulent mailings concerning the source of "in-kind" political  
7 contributions.
- 8 (h) False online information regarding the integrity of funds  
9 associated with Local 12;
- 10 (i) Acceptance via wire, on occasions too numerous to identify  
11 herein, and at times known exclusively by Defendants, of  
12 fraudulently obtained kickback payments from employers.
- 13 (j) Acceptance of payments by Waggoner and his co-conspirators  
14 from employers, at times known exclusively to Defendants;
- 15 (k) Acceptance of payments by Waggoner for the sale of real estate  
16 belonging to Local, at times known exclusively to Defendants;
- 17 (l) Deposits by Waggoner at Amalgamated Bank that were diverted  
18 from Local 12 fund assets and used to prop up Amalgamated  
19 Bank while under investigation by the FDIC.
- 20 (m) Upon information and belief, similar violations constituting  
21 predicate acts were perpetrated upon other local union chapters  
22 around the country.

23 159. The Defendants' violation of 18 U.S.C. § 1962(d) caused the Plaintiffs  
24 and the Class to suffer direct injury in amounts as may be shown according to proof  
25 at time of trial.

26  
27  
28



1 activity in connection with the described schemes and artifices to defraud and  
2 divert Local 12 resources constitutes a distinct violation of the Hobbs Act, 18  
3 U.S.C. § 1951, and further constitutes racketeering activity as that term is defined  
4 in 18 U.S.C. § 1961(1)(b). The unlawful extortion of property and rights secured  
5 under the LMRDA and other laws include, but is not limited to, the following acts  
6 by the DEFENDANTS:

- 7 (a) Obtained the voting rights of Plaintiffs and other Class members  
8 by utilizing threats of economic and physical harm to control the  
9 winners of elections at Local 12;
- 10 (b) Actively prevented members from speaking out at meetings  
11 against leadership;
- 12 (c) Obtained assets belonging rightfully to Plaintiffs and other Class  
13 members by utilizing threats of economic and physical harm to  
14 control Local 12's ability to investigate asset diversions.

15 168. Beginning at least as early as 2007, and continuing to the present, the  
16 Defendants, in furtherance of and for the purpose of executing the schemes and  
17 artifices to defraud and seize control of Local Unions, including the Local 12  
18 ENTERPRISE, on numerous occasions used and caused to be used mail  
19 depositories of the United States Mails and other commercial interstate carriers by  
20 both placing and causing to be placed letters and other mailable matter in the  
21 authorized depositories of such carriers and receiving and causing to be received  
22 letters and other matter from such carriers. Each such use of the United States  
23 Mails and other carriers in connection with the described schemes and artifices to  
24 defraud constitutes a separate and distinct violation of 18 U.S.C. § 1341, relating to  
25 mail fraud, and further constitutes racketeering activity as that term is defined in 18  
26 U.S.C. § 1961(1)(b). The unlawful use of the mails includes, but is not limited to,  
27 the following:  
28

- 1 (a) Fraudulent mailing from Local 12's leadership indicating that  
2 Local 12's funds were in sound financial condition.
- 3 (b) Fraudulent mailings concerning illegal transfers of assets  
4 between funds, including transfers of heavy equipment deleted  
5 from fund inventories.
- 6 (c) Fraudulent mailings concerning the source of "in-kind" political  
7 contributions.

8 169. Beginning at least as early as 2007, and continuing to the present, the  
9 Defendants, in furtherance of and for the purpose of executing the schemes and  
10 artifices to defraud and seize control of Local Unions, including the Local 12  
11 ENTERPRISE, on numerous occasions used and caused to be used wire  
12 communications in interstate and foreign commerce by both making and causing to  
13 be made wire communications. Each such use of a wire communication in  
14 connection with the described schemes and artifices to defraud constitutes a  
15 separate and distinct violation of 18 U.S.C. § 1343, relating to wire fraud, and  
16 further constitutes racketeering activity as that term is defined in 18 U.S.C. §  
17 1961(1)(b). The unlawful use of wire communications includes, but is not limited  
18 to, the following:

- 19 (a) False online information regarding the integrity of funds  
20 associated with Local 12;
- 21 (b) Acceptance via wire, on occasions too numerous to identify  
22 herein, and at times known exclusively by Defendants, of  
23 fraudulently obtained kickback payments from employers.

24 170. Beginning at least as early as 2007 and continuing to the present, the  
25 Defendants, in furtherance of and for the purpose of executing the schemes and  
26 artifices to defraud and seize control of Local Unions, including the Local 12  
27 ENTERPRISE, on numerous occasions knowingly engaged in and caused to occur  
28 monetary transactions in criminally derived property with value in excess of



1 \$10,000. The transactions were accomplished by depositing, withdrawing or  
2 transferring funds by, through, or to a financial institution, as such an institution is  
3 defined by 18 U.S.C. § 1956. Funds used in such transactions were derived from  
4 offenses listed in 18 U.S.C. § 1961(1), including, but not limited to, funds derived  
5 from mail fraud, in violation 18 U.S.C. § 1341, and wire fraud, in violation of 18  
6 U.S.C. § 1343. Each such monetary transaction in connection with the described  
7 schemes and artifices to defraud constitutes a separate and distinct violation of 18  
8 U.S.C. § 1957, relating to unlawful monetary transactions and money laundering,  
9 and further constitutes racketeering activity as that term is defined in 18 U.S.C. §  
10 1961(1)(b). The unlawful monetary transactions include, but are not limited to, the  
11 following:

- 12 (a) Acceptance of payments by Waggoner and his co-conspirators  
13 from employers, at times known exclusively to Defendants;
- 14 (b) Acceptance of payments by Waggoner for the sale of real estate  
15 belonging to Local, at times known exclusively to Defendants;
- 16 (c) Deposits by Waggoner at Amalgamated Bank that were diverted  
17 from Local 12 fund assets and used to prop up Amalgamated  
18 Bank while under investigation by the FDIC.

19 171. Beginning as least as early as 1997, and continuing to the present, the  
20 Defendants, in furtherance of and for the purpose of executing the schemes and  
21 artifices to defraud and seize control of Local Unions, including the Local 12  
22 ENTERPRISE, on numerous occasions knowingly traveled in interstate commerce  
23 and used facilities of interstate commerce (including, but not limited to, the mails)  
24 with the intent to promote, manage, establish, carry on, or facilitate the promotion,  
25 management, establishment or carrying on of unlawful activities (including  
26 violations of 18 U.S.C. § 1957), and thereafter performed or attempted to perform  
27 such violations. Each such interaction with facilities of interstate commerce in  
28 connection with the described schemes and artifices to defraud constitutes a

1 separate and distinct violation of 18 U.S.C. § 1952 (the “Travel Act”), relating to  
2 travel in interstate commerce with intent to facilitate certain unlawful activities, and  
3 further constitutes racketeering activity as that term is defined in 18 U.S.C. §  
4 1961(1)(b). These violations included habitual interstate travels by the Defendants  
5 to and from Local 12, for the purpose of delivering threats to Plaintiffs and  
6 ensuring that Defendants asset diversion and kickback schemes continued unabated  
7 and unchallenged.

8 172. The DEFENDANTS’ repeated violations of 18 U.S.C. §§ 1341, 1343,  
9 1951, 1952 and 1957 extended over a period of at least one year and involved  
10 distinct and independent criminal acts. Those criminal acts were neither isolated or  
11 sporadic events, but involved the regular and repeated violation as a way of doing  
12 business and to accomplish the Defendants’ desired ends in the course of pursuing  
13 their unlawful scheme to seize control of Local Unions, including the Local 12  
14 ENTERPRISE. These predicate acts were related to each other by virtue of (a)  
15 common participants, (b) similarly situated victims, (c) common methods of  
16 commission through the habitual dissemination of fraudulent and misleading  
17 information and the dissemination of threats of physical and economic harm to  
18 Plaintiffs and other Class members, and (d) the common purpose and common  
19 result of unlawfully maintaining control over Local 12, all while enriching the  
20 Defendants at the expense of Local 12 members. As such, this conduct constitutes  
21 a pattern of racketeering activity within the meaning of 18 U.S.C. § 1961(5).

22 173. The fraudulent, unlawful and improper activities of the Defendants  
23 threaten to continue. Based upon the past pattern of activity, other existing Local  
24 Unions either have or will likely be seized on false pretexts by the Defendants.  
25 Based upon the past pattern of activity, the Defendants will likely continue to  
26 defraud and deprive members of their membership rights and assets. Furthermore,  
27 the Defendants are able to implement the same unlawful schemes in other local  
28 unions if not stopped here and now.



1 the Local 12 ENTERPRISE through a pattern of racketeering activity in violation  
2 of 18 U.S.C. § 1962(b) described generally herein and specifically in the Third  
3 Claim for Relief.

4 182. In furtherance of the conspiracy and to effect the objects thereof, the  
5 Defendants committed and caused to be committed a series of overt acts, including,  
6 but not limited to, the following:

- 7 (a) Habitual interstate travels by the Defendants to and from Local  
8 12, for the purpose of delivering threats to Plaintiffs and  
9 ensuring that Defendants asset diversion and kickback schemes  
10 continued unabated and unchallenged;
- 11 (b) Obtained the voting rights of Plaintiffs and other Class members  
12 by utilizing threats of economic and physical harm to control the  
13 winners of elections at Local 12;
- 14 (c) Obtained assets belonging rightfully to Plaintiffs and other Class  
15 members by utilizing threats of economic and physical harm to  
16 control Local 12's ability to investigate asset diversions;
- 17 (d) Actively prevented members from speaking out at meetings  
18 against leadership;
- 19 (e) Fraudulent mailing from Local 12's leadership indicating that  
20 Local 12's funds were in sound financial condition.
- 21 (f) Fraudulent mailings concerning illegal transfers of assets  
22 between funds, including transfers of heavy equipment deleted  
23 from fund inventories.
- 24 (g) Fraudulent mailings concerning the source of "in-kind" political  
25 contributions.
- 26 (h) False online information regarding the integrity of funds  
27 associated with Local 12;  
28

- 1 (i) Acceptance via wire, on occasions too numerous to identify  
2 herein, and at times known exclusively by Defendants, of  
3 fraudulently obtained kickback payments from employers.
- 4 (j) Acceptance of payments by Waggoner and his co-conspirators  
5 from employers, at times known exclusively to Defendants;
- 6 (k) Acceptance of payments by Waggoner for the sale of real estate  
7 belonging to Local, at times known exclusively to Defendants;
- 8 (l) Deposits by Waggoner at Amalgamated Bank that were diverted  
9 from Local 12 fund assets and used to prop up Amalgamated  
10 Bank while under investigation by the FDIC.
- 11 (m) Upon information and belief, similar violations constituting  
12 predicate acts were perpetrated upon other local union chapters  
13 around the country.

14 183. The Defendants' violation of 18 U.S.C. § 1962(d) caused the Plaintiffs  
15 and the Class to suffer direct injury in amounts as may be shown according to proof  
16 at time of trial.

17  
18 **FIFTH CLAIM FOR RELIEF**

19 **(Violation of Bill of Rights Secured by Labor Management Disclosure Act, 29**

20 **U.S.C. § 501)**

21 **By Plaintiffs against All Defendants**

22 184. Plaintiffs re-allege, and incorporate by reference, each and every  
23 paragraph herein.

24 185. Jurisdiction is conferred on this Court pursuant to 29 U.S.C. § 412.

25 186. Violations of the Labor Management Disclosure Act, Title I (Bill of  
26 Rights), occurred within the Central District of California where Local 12 is  
27 headquartered. As such, venue is proper in this District pursuant to 29 U.S.C. §  
28 412.

1 187. Violations of the Labor Management Disclosure Act, Title IV  
2 (Elections), occurred within the Central District of California where Local 12 is  
3 headquartered. As such, venue is proper in this District pursuant to 29 U.S.C. §  
4 412.

5 188. Plaintiffs are members of the International Union of Operating  
6 Engineers, in the Local 12 Chapter of that labor union.

7 189. Defendant IUOE is a labor organization as defined in 29 U.S.C. §  
8 402(i).

9 190. Defendants, described above, are officials of IUOE or Local 12 or  
10 agents of IUOE or Local 12 or both.

11 191. Section 411 of the LMRDA, 29 U.S.C. § 411, provides in part:

12 (a)(1) Equal rights

13 Every member of a labor organization shall have equal rights and  
14 privileges within such organization to nominate candidates, to vote in  
15 elections or referendums of the labor organization, to attend  
16 membership meetings, and to participate in the deliberations and  
17 voting upon the business of such meetings, subject to reasonable rules  
18 and regulations in such organization's constitution and bylaws.

19 (2) Freedom of speech and assembly

20 Every member of any labor organization shall have the right to meet  
21 and assemble freely with other members; and to express any views,  
22 arguments, or opinions; and to express at meetings of the labor  
23 organization his views, upon candidates in an election of the labor  
24 organization or upon any business properly before the meeting, subject  
25 to the organization's established and reasonable rules pertaining to the  
26 conduct of meetings: Provided, That nothing herein shall be construed  
27 to impair the right of a labor organization to adopt and enforce  
28 reasonable rules as to the responsibility of every member toward the  
organization as an institution and to his refraining from conduct that  
would interfere with its performance of its legal or contractual  
obligations.

29 U.S.C. § 411(a)(1) and (2). Defendants, through their schemes to usurp control  
of Local 12 described above, deprived Plaintiffs of their right to honest, open, fair  
and free elections to determine the leadership of Local 12.



1            198. ERISA § 502(a)(2), 29 U.S.C.A. § 1132(a)(2), authorizes a plan  
2 participant or beneficiary to bring a civil action for appropriate relief under ERISA  
3 § 409, 29 U.S.C.A. § 1109. Section 409 requires “any person who is a fiduciary ...  
4 who breaches any of the ... duties imposed upon fiduciaries ... to make good to  
5 such plan any losses to the plan ...” Section 409 also authorizes “such other  
6 equitable or remedial relief as the court may deem appropriate ...”

7            199. Plaintiffs and Class Members are or were at relevant times participants  
8 and/or beneficiaries in the ERISA-governed plans alleged herein and associated  
9 with Local 12, including, but not limited to, the General Pension Fund, the Health  
10 & Welfare Fund, and the Operating Engineers Training Trusts, among others.

11            200. Defendants identified herein as Administrators and/or Trustees and/or  
12 IUOE Executives and/or Local Executives have assumed fiduciary obligations to  
13 Plaintiffs and Class Members.

14            201. According to the terms of the plans identified, participants such as the  
15 Plaintiffs have a right to periodically direct the plans, by and through the plans’  
16 delegated administrators and trustees, as to how the participants want his or her  
17 monies directed.

18            202. Plaintiffs are not requires to exhaust administrative remedies  
19 pertaining to breaches of fiduciary duty claims arising under ERISA.

20            203. As a direct result of the activities alleged herein, the plans have lost  
21 monies, or engaged in activities that a prudent investor would not engage in and  
22 suffered losses as a result, in amounts not presently known with precision but  
23 exceeding \$25 million.

24            204. Plaintiffs request equitable and declaratory relief, including order  
25 requiring Defendants or their bonding agents or insurers to “make whole” the  
26 ERISA-governed plans misused by Defendants.

27  
28





1 to be proven at trial. Plaintiffs and the Class Members are also entitled to recover  
2 punitive damages in an amount sufficient to punish Defendants and to deter future  
3 conduct of this type.

4  
5 **PRAYER FOR RELIEF**

6 Plaintiffs, individually, and on behalf of all others similarly situated, pray for  
7 relief and judgment against Defendants, jointly and severally, as follows:

8  
9 **Class Certification**

- 10 1. That this action be certified as a class action;  
11 2. That Plaintiffs be appointed as the representative of the Class; and  
12 3. That counsel for Plaintiffs be appointed as Class Counsel.

13  
14 **As to the First Claim for Relief**

- 15 4. For compensatory and general damages, as shown according to proof;  
16 5. For treble damages;  
17 6. For the appointment of a Receiver to operate Defendant IUOE in a  
18 lawful manner, to assure the cessation of its illegal acts and to assure the proper  
19 handling of income and payments;  
20 7. For an accounting;  
21 8. For temporary and permanent injunctive relief;  
22 9. For disgorgement of monies improperly obtained;  
23 10. For prejudgment interest according to law;  
24 11. For attorney's fees;  
25 12. For costs of suit; and,  
26 13. For such other and further relief as this Court may deem proper.



As to the Fourth Claim for Relief

- 34. For compensatory and general damages, as shown according to proof;
- 35. For treble damages;
- 36. For the appointment of a Receiver to operate Defendant IUOE in a lawful manner, to assure the cessation of its illegal acts and to assure the proper handling of income and payments;
- 37. For an accounting;
- 38. For temporary and permanent injunctive relief;
- 39. For disgorgement of monies improperly obtained;
- 40. For prejudgment interest according to law;
- 41. For attorney's fees;
- 42. For costs of suit; and,
- 43. For such other and further relief as this Court may deem proper.

As to the Fifth Claim for Relief

- 44. For compensatory and general damages, as shown according to proof;
- 45. For the appointment of a Receiver to operate Defendant IUOE in a lawful manner, to assure the cessation of its illegal acts and to assure the proper handling of income and payments;
- 46. For temporary and permanent injunctive relief;
- 47. For such other and further relief as this Court may deem proper.

As to the Sixth Claim for Relief

- 48. For temporary and permanent injunctive relief;
- 49. For declaratory relief;
- 50. For appropriate “make whole” equitable relief authorized pursuant to ERISA;
- 51. For attorney’s fees and costs pursuant to ERISA;

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52. For such other and further relief as this Court may deem proper.

As to the Seventh Claim for Relief

53. For compensatory and general damages, as shown according to proof;

54. For exemplary damages;

55. For the appointment of a Receiver to operate Defendant IUOE in a lawful manner, to assure the cessation of its illegal acts and to assure the proper handling of income and payments;

56. For an accounting;

57. For temporary and permanent injunctive relief;

58. For disgorgement of monies improperly obtained;

59. For prejudgment interest according to law;

60. For attorney's fees;

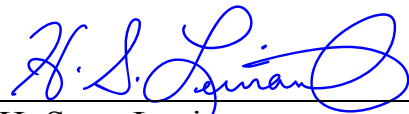
61. For costs of suit; and,

62. For such other and further relief as this Court may deem proper.

Dated: December 7, 2012

Respectfully submitted,

SPIRO MOORE LLP

By:   
H. Scott Leviant

Attorneys for Plaintiffs

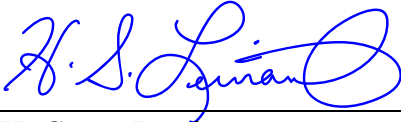
**DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury.

Dated: December 7, 2012

Respectfully submitted,

SPIRO MOORE LLP

By:   
\_\_\_\_\_

H. Scott Leviant

Attorneys for Plaintiffs

SPIRO MOORE LLP

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