

**HEARING OFFICER'S REPORT AND  
RECOMMENDATION TO THE COMMISSION**

**WATERFRONT COMMISSION OF NEW YORK HARBOR**

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Proceeding on the Initiative of the Commission to  
Determine Whether to Revoke, Cancel or Suspend  
the Registration of LEONARD MORAVEK as a  
Checker.  
-----X

HEARING

CASE: RC-685

ADMINISTRATIVE LAW JUDGE

Patrick W. McGinley, Esq.

APPEARANCES:

FOR THE COMMISSION

Jason Szober, Esq.  
Assistant Counsel

RESPONDENT

Leonard Moravek

ATTORNEY FOR RESPONDENT

Vincent James Sanzone, Jr., Esq.

A hearing was held at the office of the Waterfront Commission of New York Harbor on January 29, 2013. Respondent appeared with his attorney.

The following Counts were presented in the Notice of Hearing:

**COUNT I**

Whether Respondent associated with a person who has been identified by federal, State or local law enforcement agencies as an associate or member of an organized crime group; to wit, Joseph M. Queli, under circumstances where such association creates a reasonable belief that his participation in any activity required to be registered under the Waterfront Commission Act would be inimical to the policies of

the Waterfront Commission Act, within the meaning of the Waterfront Commission Act, Part II, Section 5-i(6).

### **COUNT II**

Whether Respondent knowingly associated with an individual who has been convicted of racketeering activity; to wit, Joseph M. Queli, who was convicted on or about January 15, 1999, in the United States District Court, District of New Jersey, of two (2) counts of Racketeering, in violation of 18 USC 1962 (c), under circumstances where such association creates a reasonable belief that his participation in any activity required to be registered under the Waterfront Commission Act would be inimical to the policies of Waterfront Commission Act within the meaning of the Waterfront Commission Act, Part II, Section 5-i(7).

### **COUNT III**

Whether Respondent possesses good character and integrity within the meaning of the Waterfront Commission Act, Part I, Article VIII, Section 5-n, Subdivisions 5(a) and 3(a), in that;

- (A) He committed an offense as set forth in Count I herein above; and
- (B) He committed an offense as set forth in Count II herein above causes which would permit his disqualification from inclusion in the longshoreman register as a checker upon original application.

### **COUNT IV**

Whether to revoke, cancel, or suspend Respondent's registration as a checker.

### **FACTS AND FINDINGS**

I find that jurisdiction in this matter has been established, specifically by the receipt in evidence of Commission Exhibit 1, Respondent's application for registration as a warehouseman, dated December 2, 1992 and by Commission Exhibit 2, Respondent's application for registration as a checker, dated June 22, 1995.

Based upon the evidence, I find that the charges set forth in the Notice of Hearing have been established by a clear preponderance of the evidence.

There is no substantial dispute as to the underlying facts. Respondent borrowed \$1,200.00 from Joseph M. Quelli, a former registered warehouseman who worked on the piers for over 20 years; he is also a made member of the Genovese Crime Family who served 30 months in prison after his 1999 conviction for racketeering.

Quelli's status as a member of organized crime was amply proven by the evidence herein. Waterfront Commission Detective, Joseph Longo, testified that he was formerly employed by the NYPD for 21 years, 9 of them assigned to the NYPD/FBI Joint Organized Task Force. Longo testified that he was familiar with Joseph Quelli who was a soldier in the Genovese Crime Family; information shared by the NYPD, FBI and other law enforcement agencies confirmed Quelli's status. Also introduced in evidence was Commission Exhibit 14, a binder of documents, including press releases and newspaper articles, reflecting Quelli's arrests and his activities as a soldier in the Genovese Crime Family. This binder was assembled by Daniel Ramirez, Director of Intelligence at the Waterfront Commission. Commission Exhibit 8 in evidence, a 1999 Judgment from the United States District Court (D. NJ) reflects Quelli's conviction on two counts of racketeering.

Joseph M. Quelli was also indicted in New Jersey for criminal usury and money laundering and pleaded guilty in October 2011 to conspiracy to commit criminal usury and filing a false income tax return. He was sentenced, on February 10, 2012, to five years in prison. (Commission Exhibits 9, 10 and 11).

Respondent testified that he borrowed \$1,200.00 from Quelli in 2006 or 2007 because he had "a financial situation," perhaps behind in car payments. He further testified that he was not aware that Quelli was convicted of racketeering in 1999, nor that he went to prison; nor that he was a member of organized crime. The loan was negotiated at the Café Italia, a small luncheonette in the Ironbound Section of Newark, New Jersey. Respondent described it as a friendly loan, with no payback date, and he paid it back, over a period of 2 ½ - 3 years in \$20, \$50, or whatever amount he could spare when he and Quelli would meet at the Café Italia.

Then came a disagreement between the parties, with Quelli "hollering" at Respondent who understatedly testified that "maybe he felt I was taking a little too long to pay him back." During the period of this loan, no notations or bookkeeping entries were made. Both parties kept the payoff amounts in their heads after numerous meetings at Café Italia.

After the hollering incident, Respondent enlisted his uncle, Theodore Fiori, a Newark businessman who owns his own demolition business, to pay back the remaining amounts of the loan to Quelli. Although Respondent testified that he gave Fiori the remaining \$600.00 to pay Quelli, Mr. Fiori denied that Respondent gave him \$600.00. At any rate, the loan was apparently repaid. Mr. Fiori testified at the hearing that although he knows Quelli from the Ironbound neighborhood for 20 years or more, he doesn't know, and never heard that Quelli was involved in organized crime. Mr. Fiori described Respondent, like a son, as a good person, who works hard and minds his own business, and who has a good reputation.

Respondent testified that he has a long association with the port, working at Maher Terminal for between 10-15 years. His father retired from the piers after 30 years; his sister and mother work as checkers as do several cousins. Respondent grew up in the Ironbound where people know each other and where they knew him because his family was big in the garbage and demolition businesses. Respondent testified that he met Quelli when he attended his son's wedding and did not know that Quelli was arrested for racketeering in 1999 or that he went to prison, or that he was a member of organized crime.

A photograph of Joseph M. Quelli was introduced into evidence as Commission Exhibit 15. Both sides agreed that the person pictured was the source of the loan to Respondent in this case and I amended the Notice of Hearing to include the middle initial "M."

Testimony concluded at the hearing with the Article IV interview transcript of Joseph M. Quelli being received in evidence as Respondent's Exhibit A, as it relates to this case.

### **CONCLUSIONS**

The defense does not dispute that Joseph M. Quelli was a soldier in the Genovese Crime Family and a member of organized crime. Respondent admits that he received a loan of \$1,200.00 from Quelli in 2006-2007 and paid him back, in dribs and drabs, over a period of time during several meetings at the Café Italia. The loan turned hostile when Respondent did not repay it as soon as Quelli would have liked. In addition, and in hindsight, Respondent acknowledges that he should not have accepted any loan from Quelli.

The defense has raised several arguments, all of which are forcefully alleged, but in my view unavailing. Respondent argues that the Commission has not shown that Quelli exercised any influence over him because of the loan, or that Respondent received any benefits at the port because of the loan, or that Respondent bragged about his connection with Quelli, or that such connection gave Respondent an advantage in work hours or assignments.

In addition, Respondent claims that there is no evidence that he engaged in any illegal contact with Quelli. Respondent points out that the loan, which was obtained in 2006-2007, originated approximately 4 years before Quelli was placed on a barred list which, in any event, was not published by local unions to its members. The defense also notes that there have been no judicial determinations of the meaning of key words in the statutes cited in the Notice of Hearing.

In this case, the sections of the Waterfront Commission Act charged against the Respondent are the following:

There are two other legal aspects relevant to the charges against Respondent. The first is that there is no requirement under the Waterfront Commission Act that the Commission must prove that any association was for a criminal purpose. In other words, there is no requirement that the loan to Respondent be in any manner illegal. Since the Commission's standard for revocation for criminal association is similar to the New Jersey Casino Control Act, I shall adopt the reasoning of the New Jersey Superior Court in holding that association with a career criminal by a casino license applicant "creates an unacceptable risk of corruption," and that it is "unnecessary to wait for the detrimental effects" to occur before taking action. (See HREBI, Local 54, 496 A.2d 1111 (App. Div. 1985). Accordingly, I find that the Commission in this case has no obligation, as part of its burden of proof, to show that Respondent met with Joseph M. Quelli for a criminal purpose or that Respondent's association with Quelli got him special favors, promotions and the like. Suffice it to say that an association is inimical if the circumstances create a risk that a member of organized crime might exercise some degree of influence or control over a checker at the Waterfront. See, Application of Gaines Services Leasing Corp., 94 N.J.A.R.2d 9 (1992).

I also find that Respondent knew or should have known that Joseph M. Quelli was an organized crime member and a convicted Racketeer. Respondent was friendly with Quelli's son whose wedding Respondent attended. And the loan was described by Respondent as friendly, a departure from Quelli's usual practice if his loansharking conviction is any guide.

In my view, the sections of the Waterfront Commission Act cited above provide for strict liability. The statute is aimed at the appearance of impropriety; there are no statutory exceptions. I view the specific sections as tough, no exceptions, antidotes to criminal influence on the piers.

Both sides, in their memoranda submitted at the close of hearing, have acknowledged the need to insure that criminal influences are not permitted to breed corruption and illegal activities. Article I of the Waterfront Commission Act vividly describes the conditions existing at the waterfront necessitating regulation and protection. Borrowing at usurious rates of interest is one of the evils befalling longshoremen and is listed in Article I.

There is no issue of usurious borrowing in this case, but it takes no flight of fancy to surmise that borrowing money from a member of organized crime could create immediate problems for a Checker on the waterfront. In fact, it is hard to imagine an act, more conducive to corrupt dealings, than borrowing money from a crime family member. Respondent acknowledges in his closing memorandum that he should not have accepted a personal loan from Quelli. He credits this acknowledgment to hindsight. In my view, it was a reckless act that could have led to dire consequences, especially after Quelli grew tired of waiting for repayment. Moreover, it is even difficult to understand, and no satisfactory explanation was attempted at the hearing, why

Respondent, who was making approximately \$150,000.00 per year, had to borrow such a comparatively small sum, and then had difficulty repaying it.

Respondent testified that he didn't know that Quelli was involved in organized crime and that he never heard of any conviction around the neighborhood. Yet Quelli's 1999 arrest received publicity in local newspapers and the New York Times (Commission Exhibit 14). Respondent grew up in the Ironbound section. He has worked at the ports for 10-15 years. His father worked on the piers for 30 years before retirement; his sister and mother work as checkers. His uncle, Theodore Fiori, who testified at the hearing and intervened for him with Quelli, grew up in the Ironbound and runs his own demolition company. Respondent testified that the Quellis were part of a neighborhood where everybody knew everybody.

The neighborhood happens to be the Ironbound section of Newark, New Jersey. I have learned about this neighborhood from several cases that have come before me; however, the best description came from a character reference letter, in another, unrelated case, from the former Auxiliary Bishop of the Archdiocese of Newark and a pastor at Our Lady of Mount Carmel Parish:

"The intimate relationship between the port and the parish was something that needs to be understood in context. The unfortunate situation of organized crime's infiltration and presence in the port is obviously something of long-standing history. Individuals are well known to the community and not necessarily as crime bosses or people of ill repute. This complicated social situation in the Ironbound leads many people to have indiscriminate relationships with those who might be considered members of organized crime."

I take judicial notice of the "complicated social situation in the Ironbound," and find that Respondent knew, or should have known, that in dealing with Quelli, he was dealing with a member of an organized crime group and convicted of racketeering (18 USC 1962(c)) in 1999 in the USDC (DNJ). I find also that Respondent associated with Quelli; meeting with and communicating with him several times, mostly in person at the Café Italia. They were purposeful meetings to discuss and repay a loan. I find that such association created a reasonable belief that Respondent's participation in any activity required to be registered under the Waterfront Commission Act would be inimical to the policies of the Act, within the meaning of the Waterfront Commission Act, Part II, Section 5-i(6), and Section 5-i(7).

Finally, I find that Respondent does not possess good character and integrity within the meaning of the Waterfront Commission Act, Part I, Article VIII, Section 5-N, Subdivisions 5(a) and 3(a) because of the above offenses which would permit