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INVESTIGATIONS OFFICER,  
Claimant,  
v.  
GEORGE CHIAVOLA,  
Respondent.

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DECISION OF  
THE INDEPENDENT  
ADMINISTRATOR

The Investigations Officer charged George Chiavola ("Respondent"), former Representative of the Central Conference of Teamsters and member of Local 41<sup>1</sup> in Kansas City, Missouri, with:

[V]iolating Article II, section 2(a) and Article XIX, subsection 6(b)(1) and (2) of the International Brotherhood of Teamsters (IBT) constitution, by conducting [himself] in a manner to bring reproach upon the IBT and by violating [his] oath,

To wit, while a member of Local 41 and an employee of the Central Conference of Teamsters [he] knowingly associated with members and associates of La Cosa Nostra from 1979 to the present, including Nick Civella, Carl Civella, Sam Ancona, Allen Dorfman and Phil Simone.

The charge against Respondent for associating with Sam Ancona and Phil Simone was withdrawn by the Investigations Officer prior to the presentation of evidence. At the hearing, Special Counsel

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<sup>1</sup> Respondent tendered his resignation from his Central Conference position prior to this hearing on December 11, 1990. T10-5 to 11; IO-13 at 14. References to "T" refer to pages in the transcript of the February 7, 1992, hearing held before me. As such, the reference to "T10-5 to 11" refers to page 10, lines 5 through 11 of the transcript. Respondent was also issued a "withdrawal card" from Local 41. Id.; IO-5. References to "IO" relate to the Investigations Officer's Exhibits.

for the Investigations Officer stated that "[f]or the purpose of this hearing, the Investigations Office is prepared to prove on its direct case that Mr. Chiavola associated with Nick Civella ["Civella"] and Allen Dorfman ["Dorfman"] and not the other people mentioned in the charge." T3-20 to 24. Consequently, my decision in this matter addresses only the evidence submitted by the Investigations Officer on the issue of whether Respondent knowingly associated with Civella and Dorfman, alleged members and associates of La Cosa Nostra.

By way of telephone conference, a hearing was conducted before me on February 7, 1992.<sup>2</sup> Neither Respondent, nor a representative on his behalf, appeared.<sup>3</sup> In fact no communications from Respondent or a representative were received. This was despite the fact that the hearing, originally scheduled for December 10, 1991, was adjourned and rescheduled twice to afford Respondent an opportunity to respond. In addition to failing to appear at the hearing, Respondent also failed to submit any response to the Investigations Officer's post hearing memorandum.

Extraordinary effort was made by both the Investigations Officer and my office to notify Respondent of the proceedings against him. On every occasion that items were mailed to Respondent by way of certified mail, return receipt requested, they

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<sup>2</sup> Representatives from my office appeared at the hearing, while I was linked from another state by way of telephone.

<sup>3</sup> In addition, Chiavola also failed to appear at the scheduled time and location for his sworn in person examination before the Investigations Officer. T7-7 to 17.

were either returned as unclaimed or nothing was received from the post office indicating the status of delivery.<sup>4</sup> T4-1 to T10-1, T16-13 to T17-6; IA-1, IA-3, IA-4.<sup>5</sup> Items sent by regular mail, however, were not returned as undeliverable. Id. Nonetheless, because Respondent signed for and received the Notice of Sworn Examination, which was sent to him by the Investigations Officer prior to the charge being filed, it is clear that he was put on notice that he was subject to an investigation.<sup>6</sup> T4-10 to 16; IO-8.

Finding that Respondent had notice of the process, but was nonetheless avoiding it, I proceeded with the hearing in his absence.

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<sup>4</sup> For example, on October 30, 1991, my office sent Respondent a Notice of Hearing via certified mail, return receipt requested. IA-1. Nothing was returned to my office indicating the status of that delivery. On December 30, 1991, a letter was sent via certified mail, return receipt requested, to Respondent rescheduling the hearing. This letter was returned as unclaimed. IA-3. Finally, on January 6, 1992, because Respondent had yet to acknowledge his rescheduled hearing date, my office sent to him, via certified mail, return receipt requested, and regular mail, all of the letters and materials previously sent to him. IA-4. The certified mailing was returned as unclaimed after two attempts at delivery and nothing was received from the post office indicating that the regular mail was not delivered. Id.

<sup>5</sup> References to "IA" refer to the Independent Administrator's Exhibits.

<sup>6</sup> Respondent may have also accepted delivery on the original Notice of Hearing which was sent by way of certified mail, return receipt requested, by my office. IA-1. This notice set the original hearing date of December 10, 1991. Id. Nothing was received from the post office indicating that delivery was not made. Id.

Having reviewed the evidence presented, the Investigations Officer's post-hearing memorandum and the testimony at the hearing, I find that the Investigations Officer has met his just cause burden of proving the charge against Respondent by a preponderance of the evidence. See Investigations Officer v. Salvatore, Decision of the Independent Administrator (October 12, 1990), aff'd United States v. IBT, 754 F. Supp. 333 (S.D.N.Y. 1990) (affirming the "preponderance of the evidence" standard).

#### **I. IBT Constitutional Provisions**

The charge against Respondent implicates two provisions of the IBT Constitution. Article II, section 2(a), the IBT oath of membership, provides that each IBT member shall "conduct himself in a manner so as not to bring reproach upon the Union . . . ." Article XIX, section 6(b), sets forth a non-exhaustive list of charges which may be brought against IBT members and officers, which include:

(1) Violation of any specific provision of the Constitution, Local Union By-laws or Rules of Order, or failure to perform any of the duties specified thereunder.

(2) Violation of oath of office or of the oath of loyalty to the Local Union and the International Union.

#### **II. The Investigations Officer's Case**

In proving the charge against Respondent, the Investigations Officer submitted, among other exhibits, the Declaration of Special Agent Eugene N. Thomeczek ("Thomeczek") of the Federal Bureau of

Investigation ("FBI"). IO-13. This Declaration and Thomeczek's testimony at the hearing before me verifying the Declaration provided the linchpin for the Investigations Officer's case.

Thomeczek has been with the FBI for over twenty three years. Id. at ¶¶ 2-3. During his experience with the FBI, Thomeczek has been involved in numerous investigations of La Cosa Nostra and its activities. Id. at ¶ 2. As such, he is knowledgeable about the investigative techniques<sup>7</sup> employed by the FBI and has personal experience in the use of them. Id.

From 1969 to 1979 Thomeczek investigated organized crime from the FBI's Louisville, Kentucky office. Id. at ¶ 3. Since 1979 Thomeczek has been assigned to the Kansas City, Missouri, Field Division's organized crime squad. Id. at ¶ 2. Thomeczek has also been a "Case Agent," managing investigations involving both organized crime in the Kansas City area and the Kansas City La Cosa Nostra family. Id. Because the Kansas City family is subordinate to the Chicago La Cosa Nostra family, Id. at ¶ 17, Thomeczek must also have thorough knowledge of the Chicago family. Moreover, Thomeczek has testified at criminal hearings and trials involving members and associates of La Cosa Nostra and has been qualified as an expert in that area on at least six different occasions. Id. at ¶¶ 2-3.

In light of Thomeczek's background and experience, I accept him as an expert in investigations of organized crime and in the

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<sup>7</sup> These include physical and electronic surveillance, the use of informants and cooperative witnesses, search and arrest warrants, witness interviews and document review.

structure of organized crime in the Kansas City, Missouri area and as an expert in the structure of the Chicago La Cosa Nostra to the extent it relates to the Kansas City family.

### III. Civella and Dorfman's Connections With Organized Crime

#### A. Civella

Civella was identified by Thomeczek as the "boss" of the Kansas City La Cosa Nostra from "the mid 1950's until his death in 1983." IO-13 at ¶ 18. Thomeczek's identification of Civella is corroborated by other extensive evidence.

Aladena "Jimmy" Fratianno, an admitted member of La Cosa Nostra, identified Civella as the boss of the Kansas City family and has had conversations with Civella and Roy Williams, the former IBT General President, regarding IBT related activities. IO-13C at 123, 160. Williams stated that he knew Civella since 1952 or 1953 and eventually became convinced of Civella's involvement in organized crime. IO-13D at 83-84. Acknowledging that he was in fact controlled by Civella during his service as IBT General President, Williams stated "[w]ell to be right frank about it, if I didn't want to get killed, I was his boy." *Id.* at 104.

The United States Senate Permanent Subcommittee on Investigations ("Senate Subcommittee") has also determined Civella to be a member of La Cosa Nostra. The Senate Subcommittee, like the FBI, has described Civella as the head of organized crime in Kansas City. IO-13M.

Civella has also been publicly identified in numerous newspaper articles as a reputed underworld figure and "boss" of the Kansas City La Cosa Nostra. IO-13E.

I find that this evidence establishes that Civella was a member and leader of the Kansas City family of La Cosa Nostra until his death in 1983.

**B. Dorfman**

Evidence was also introduced by the Investigations Officer, through the Thomeczek Declaration, to prove that Dorfman was associated with the Chicago La Cosa Nostra family. Thomeczek stated that Dorfman "had a close working relationship with the leadership of the Chicago La Cosa Nostra Family, the International Brotherhood of Teamsters and the Teamsters Central States Pension and Health and Welfare Funds." IO-13 at ¶ 15. Jimmy Fratianno testified that Dorfman had a business relationship with the IBT, its insurance funds, and Chicago organized crime. See, e.g., IO-13C at 35-44. Williams testified that he had seen Civella and Dorfman meet fifteen or twenty times. IO-13D at 134. On at least one of those occasions, Williams, Dorfman and Civella met and discussed IBT related affairs. Id. at 222.

In addition, pursuant to a court order, between November 30, 1979, and February 12, 1980, the FBI conducted electronic surveillance of conversations Civella held with his visitors while at the Leavenworth Federal Penitentiary ("Leavenworth"). IO-13 at ¶ 28. During one of these conversations, Civella instructed

Respondent to obtain from Civella's brother in Chicago, Anthony Civella, a sealed envelope and return it to Civella's wife, Katie Civella. IO-13G. The FBI's subsequent investigation into the contents of this envelope disclosed "that the envelope contained [a] Chicago telephone number . . . where Nick Civella could call Allen Dorfman from the pay phones" at Leavenworth. IO-13 at ¶ 30. In numerous other intercepted conversations of Civella, Dorfman was repeatedly mentioned.<sup>8</sup> See IO-13 at ¶¶ 31-33.

Moreover, Dorfman has been publicly linked to the mob in major newspaper articles. IO-13E. "[H]e was a confidant of the most notorious mobsters in the country . . . [who] 'probably was aware of more information on more (mob) people than maybe any other single individual around the country.'" Frantz, Double Life of Allen Dorfman, Chicago Tribune, Jan. 21, 1983, at 13.

I find the evidence presented regarding Dorfman to be credible. The Investigations Officer has established Dorfman's close association with organized crime.

#### **IV. Respondent's Knowing Association With Civella and Dorfman**

In order to sustain his burden in proving the charge against Respondent, the Investigations Officer must first demonstrate that Respondent had contacts with Civella and Dorfman which were "purposeful and not incidental or fleeting." Investigations Officer v. Senese, et al., Decision of the Independent Administrator at pp.

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<sup>8</sup> In these conversations Dorfman is sometimes referred to as "the Rabbi." Thomeczek stated that he understood "the Rabbi" to mean Dorfman. IO-13 at ¶33.

35-36 (July 12, 1990), aff'd, United States v. IBT, 745 F. Supp. 900 (S.D.N.Y. 1990), aff'd, 941 F.2d 1292 (2d Cir. 1991). "[T]he focus will be placed on the nature and not the number of contacts in question." Id.

**A. Civella**

Respondent's knowing association with Civella is clearly demonstrated by the evidence. Respondent was Civella's nephew.<sup>9</sup> IO-13 at ¶ 25. Williams testified that Respondent's advancement in the IBT was the result of Respondent's relationship to Civella and Civella's influence over Williams. IO-13D at 241.

In the period between November 30, 1979, and February 12, 1980, during Civella's incarceration at Leavenworth, Respondent met with Civella in the Leavenworth visiting room every Monday for nearly one hour. IO-13 at ¶ 28. As revealed by the above mentioned FBI electronic surveillance of Civella in the Leavenworth visiting room, numerous intercepted conversations between Respondent and Civella involved topics relating to the FBI's surveillance activity, Civella's attempts to contact Dorfman, Roy Williams, and other IBT members. IO-13 at ¶¶ 29-33.

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<sup>9</sup> I have previously recognized that certain relationships, including close familial ones, are to be afforded "a substantial measure of sanctuary from unjustified interference . . . ." Investigations Officer v. Salerno, et. al., Decision of the Independent Administrator, p. 26 (August 20, 1990) (citing Roberto v. United States Jaycees, 468 U.S. 609, 618 (1984)), aff'd, United States v. IBT, 745 F. Supp. 189 (S.D.N.Y. 1991). The circumstances of this case, however, do not warrant application of this practice, given that Respondent's associations with Civella "were not solely familial." Id. at 27.

In at least one conversation between Civella and Respondent, Respondent was appointed to act as a secret courier for Civella while Respondent was on IBT related business. Id. at ¶ 30; IO-13G. In a conversation between Civella, Civella's wife and Civella's brother, numerous references were made to Respondent. Id. at ¶ 32.

Having established that Respondent had many purposeful contacts with Civella, I must next determine whether Respondent was aware of Civella's mob connections and position within the Kansas City family of La Cosa Nostra during his contacts. The evidence presented leaves no doubt that Respondent knew of Civella's ties. Respondent surely knew the reasons for Civella's May 14, 1975, conviction and subsequent incarceration -- conspiring to run an interstate bookmaking business, a business commonly known to be associated with organized criminal activity. See IO-13A. In addition, in one of the intercepted conversations between Respondent and Civella at Leavenworth, various members of La Cosa Nostra were discussed. IO-13 at ¶ 33; IO-13G. Further, Civella's relationship with La Cosa Nostra was widely publicized in the Kansas City area. IO-13E.

Given the direct and unrefuted evidence presented that Respondent frequently met with Civella, discussed IBT related affairs with him, participated in discussions mentioning other members of La Cosa Nostra, and acted as a courier for Civella, all during a time when he knew of Civella's links to the Kansas City mob, I find that Respondent knowingly associated with Civella

during the relevant time period and thereby brought reproach upon the IBT.

**B. Dorfman**

The evidence submitted demonstrating Respondent's relationship with Dorfman is also sufficient to find that Respondent knowingly associated with Dorfman, a consort of La Cosa Nostra.

Several conversations between Respondent and Dorfman were intercepted by the FBI pursuant to court ordered electronic surveillance and telephone wire tap at Dorfman's business office between May 1979 and January 1980. IO-13 at ¶ 33; IO-13F. In other intercepted conversations from that location, Respondent's name was either mentioned or discussed among the parties to those conversations. Id. The precise nature of the topics discussed in these conversations is not clear from the evidence submitted as no transcripts of the conversations were provided. Given the background developed here, however, the absence of such transcripts is not critical.

I recognize that Dorfman may have had some legitimate business reasons for maintaining contacts with IBT officers such as Respondent as one of Dorfman's companies, Amalgamated Insurance Agency Services, provided insurance to various IBT related entities. As such, it is possible that some of the conversations between Respondent and Dorfman may have related to legitimate IBT business.

One would have to ignore other evidence presented to conclude that all of Respondent's contacts with Dorfman were above-board. For example, on January 15, 1980, the FBI intercepted a conversation between, inter alia, Civella and Respondent at Leavenworth. During that conversation several individuals identified by Thomeczek as either members of the Cleveland La Cosa Nostra or former members of the IBT were mentioned. IO-13 at ¶ 33; IO-13G. Included in this discussion was a reference to Dorfman by Respondent. Id. In fact, during the conversation, Respondent sent Civella Dorfman's regards. IO-13G.

Against the backdrop of Dorfman's and Respondent's mutual ties to Civella and Respondent's reference to Dorfman in conversations with Civella wherein other members of organized crime are mentioned, it is reasonable to conclude that the subject of at least some of the telephone conversations intercepted between Respondent and Dorfman at Dorfman's place of business related to activity linked to organized crime.

I also find that there was sufficient reason for Respondent to know that Dorfman was associated with La Cosa Nostra. The intercepted conversations at Dorfman's place of business, either involving or mentioning Respondent, spanned a period of at least eight months -- the entire period of the wiretap and electronic surveillance of Dorfman's place of business. See IO-13 at ¶ 33. It can be reasonably inferred that the conversations and the relation between Respondent and Dorfman covered a much broader period prior to and after the authorized surveillance was conducted.

"In the absence of direct evidence of knowledge of the organized crime ties of an associate . . . such may be inferred from the duration and quality of the relationship." Senese, supra, Decision of the Independent Administrator at p. 37. Given the duration, extent and nature of contacts Respondent maintained with Dorfman, I conclude that Respondent knew Dorfman to be a colleague and confederate within La Cosa Nostra.

The Investigations Officer has adequately met his burden in proving that Respondent knowingly associated with Dorfman, an associate of La Cosa Nostra, thereby bringing reproach upon the IBT.

#### V. The Penalty To Be Imposed

As previously mentioned, Respondent submitted his notice of resignation on December 11, 1990. See supra n.1, p.1. Thereafter, in July 1991 he received his withdrawal card from Local 41. Respondent, however, left open the possibility of his return to the IBT "[i]f the future brings any need for [his] assistance . . . ." IO-13L. Given that Respondent could return to the IBT, his alleged retirement will not prevent disciplinary action against him. See United States v. IBT, 745 F. Supp. 189, 192 (S.D.N.Y. 1990) (former union official could not avoid finding of misconduct and permanent debarment from union membership merely because he had retired following the issuance of charges against him).

It is well settled that when a Union official knowingly associates with elements of La Cosa Nostra the only just penalty is

"permanent debarment from the very Union he has tainted."  
Investigations Officer v. Cozza, Decision of the Independent  
Administrator at p. 32 (February 22, 1991), aff'd, United States v.  
IBT, 764 F. Supp. 797 (S.D.N.Y. 1991).

Therefore, by virtue of this decision, Respondent is  
permanently barred from the IBT. Thus, Respondent is to remove  
himself from all his IBT affiliated Union positions (including  
membership in the IBT), to the extent that he has not already done  
so; and he shall draw no money or compensation therefrom, or from  
any other IBT affiliated source. Moreover, sanctions impacting  
upon Respondent's employee benefits (including pension, health and  
welfare benefits), to the extent they exist, are in order. See  
Investigations Officer v. Senese, Supplemental Decision of the  
Independent Administrator (November 29, 1990), aff'd, United States  
v. IBT, 753 F. Supp. 1181 (S.D.N.Y. 1990).

As is always my practice, I provided Respondent the  
opportunity to submit a schedule of his benefits as well as a  
memorandum on the issues raised in imposing sanctions touching upon  
those benefits. Respondent, however, did not supply me with any  
submission regarding his benefits. This, however, does not prevent  
me from imposing sanctions impacting upon such benefits, to the  
extent they exist.

The first category of benefits to address consists of those  
administered by both IBT affiliated persons or entities, on the one  
hand, and non-IBT affiliated persons and entities on the other. In  
the past I have characterized such benefits as "Third-Party Plans."

If Respondent is a participant in any Third-Party Plan, I direct that the IBT and any affiliate that may contemplate making payments, not make, or discontinue making, payment of IBT related funds to such Third-Party Plans on Respondent's behalf. This ruling, however, shall not interfere with Respondent's right to receive benefits which have already vested in such plans.

Second, to the extent that the IBT or any IBT affiliated entity contemplates making payments of any benefits to Respondent which are under their exclusive control (including bonuses and Local controlled severance plans), they are hereby directed not to make such payments.

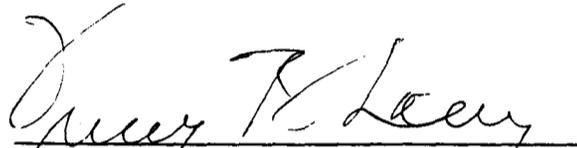
Finally, it is well settled that Union officials charged with and subsequently found to have committed misconduct may not have their legal fees paid for by the Union. See, e.g., United States v. Local 1804-1, 732 F. Supp. 434, 437 (S.D.N.Y. 1990). Although Respondent would not appear to have accrued any legal expenses in his defense, as he has neither appeared before me nor submitted any response to the charge against him, Respondent may not have any legal fees in connection with this charge, if any exist, paid for by the Union.

#### **VI. Application To Judge Edelstein**

In light of the nature of the charge against Respondent, I will not stay my decision. It is clearly within the best interests of the IBT and Local 41 to swiftly purge Respondent from the Union

and prevent his possible return. The penalties imposed herein shall take effect immediately.

Notwithstanding the fact that I have not voluntarily stayed this Decision, I will submit it to the Honorable David N. Edelstein for his review and approval by way of Application in accordance with the procedure set forth in the Consent Order.

  
Frederick B. Lacey  
Independent Administrator

Dated: March 25, 1992