

-----X
In the Matter of the :
Disciplinary Proceeding against :

FRANCES X. NAPPI :

Before the Independent Supervisor, :
Local 851, International :
Brotherhood of Teamsters. :

MEMORANDUM DECISION

Introduction

This is a disciplinary proceeding brought against Frances X. Nappi ("Nappi") pursuant to Section V(G) of the Consent Decree, as amended, entered into by the United States of America, the International Brotherhood of Teamsters ("IBT"), and Local 851, IBT in United States v. Local 295, IBT, et al., 90 Civ. 0970 (E.D.N.Y.) (Nickerson, J.) (hereinafter "Consent Decree"). The Consent Decree was approved by the Court and entered as an order in October 1994.

The purpose of the disciplinary proceeding is to determine whether or not Nappi, a member of Local 851, violated Section I(C) of the Consent Decree by knowingly associating with Anthony Razza ("Razza"), a person enjoined from participating in union affairs and an associate of an organized criminal group, and by falsely testifying and endeavoring to conceal material facts during an investigative interview by the Office of the Independent Supervisor ("OIS") concerning the nature and extent of Nappi's association with Razza while he was in prison. As a member of Local 851, Section I(C) of the Consent Decree enjoined Nappi from "obstructing the work of the Court-appointed Independent Supervisor."

Pursuant to Section V(G)(5) of the Consent Decree, as amended, the Independent Supervisor referred the disciplinary charges against Nappi to the Local 851 Union Trustee and, after consultation, the Union Trustee and the Independent Supervisor both determined that it was appropriate for this disciplinary matter to be heard and resolved directly by the Independent Supervisor. A Notice of Disciplinary Proceeding was sent to Nappi, and a hearing on the disciplinary charges was held before the Independent Supervisor on June 18, 1997.

David A. Krasula, Chief Investigator of OIS, and Brian F. Taylor, Supervisory Special Agent of the Federal Bureau of Investigation ("FBI"), testified at the hearing, and various documentary evidence was also received in evidence. Nappi appeared at the hearing, but chose not to testify subject to cross-examination at the hearing. Nappi did present argument, but no evidence, at the hearing.

Pursuant to Section V(G)(6), (7) of the Consent Decree, as amended, this memorandum decision constitutes the written determination of the Independent Supervisor concerning the disciplinary charges and the imposition of the appropriate discipline in this matter. Based on the evidence presented at the hearing, I find that the disciplinary charges have been proven and impose the discipline set forth below for Nappi's violation of Section I(C) of the Consent Decree.

The Material Background Facts and Circumstances

As set forth in the Consent Decree, the purpose of the appointment of the Independent Supervisor is to ensure that "any traces of racketeering, corruption and organized crime influence are eradicated from Local 851." To accomplish that goal Section I(B) of the Consent Decree enjoined all members of Local 851 from "knowingly associating with any member, associate, or other individual involved with an organized criminal group, or knowingly associating with any person enjoined from participating in union affairs." Moreover, pursuant to Section V(A), (B) and (C) of the Consent Decree, the Independent Supervisor was given the power and responsibility to investigate corruption and abuse within Local 851, and to interview members and take testimony concerning such prohibited association by Local 851 members. Furthermore, Section I(C) of the Consent Decree enjoined all members from "obstructing the work of the Court-appointed Independent Supervisor."

The disciplinary charges herein relate directly to those provisions of the Consent Decree and concern Nappi's association with Razza, the former Secretary/Treasurer and principal officer of Local 851. In late January 1993 Nappi was appointed as Recording Secretary of the Executive Board of Local 851 pursuant to Razza's recommendation, and served on the Executive Board until late January 1994 when the General President of the IBT imposed a trusteeship over the affairs of Local 851 in order to protect the interests of the members of Local 851. The trusteeship was based in substantial part on the circumstance that Razza had recently been indicted for labor racketeering by a federal grand jury. The notice of the trusteeship, which was directed to the officers and members of Local 851, stated that the "indictment alleges that Razza is an associate in the Luchese organized crime family and charges that he, among other things, accepted payoffs in return for non-enforcement of provisions in collective bargaining agreements."

Even prior to the removal of the Executive Board as a result of the imposition of the trusteeship, Nappi had become familiar with the subject of Razza's ties to organized crime. During her service as a member of Local 851's Executive Board, Nappi had been named to a sub-committee that had the responsibility to investigate certain allegations that appeared in the January 1993 issue of #295 News, the newsletter of Local 295, IBT, a sister local of Local 851. The newsletter reported allegations that Razza "met each day" with Patrick Dello Russo, "a member of the Lucchese La Cosa Nostra family", that Dello Russo "was sponsored by Alphonse D'Arco to run Locals 295 and 851 while Anthony Calagna was incarcerated", and that D'Arco was "the former acting boss of the Lucchese family of La Cosa Nostra." During her investigative interview by OIS, Nappi stated that the

sub-committee investigated allegations of corruption in that Razza was "involved in organized crime and ... some kind of financial corruption" with the union's funds. The indictment voted by the federal grand jury in late 1993 alleged that Razza was as an "associate of the Luchese Crime Family since at least 1990" and that he "used his position in Local 851 to promote the interests of the Luchese Crime Family in matters pertaining to the Luchese Crime Family's corruption of and domination over Local 851."

In April 1994 Razza pled guilty in federal court to criminal charges involving unlawful labor payoffs. He was subsequently sentenced to a term of imprisonment of twenty-one months. During the OIS interview Nappi stated that she was aware that Razza had pled guilty to labor racketeering charges and was sentenced to prison. Indeed, Nappi acknowledged attending one of the court proceedings involving the federal criminal charges against Razza.

In early 1994 the Independent Review Board ("IRB") appointed pursuant to a Consent Order entered on March 14, 1989 in United States v. IBT, 88 Civ. 4486 (DNE) (S.D.N.Y.) brought disciplinary charges against Razza alleging that he knowingly associated with Patrick Dello Russo, a member of La Cosa Nostra, and that he willfully and without justification refused to appear for a sworn examination before the IRB. In April 1994 Razza resolved the IRB charges by executing an Affidavit and Agreement before the IRB whereby he resigned from the IBT, agreed never to hold membership in the IBT again, and "agreed not to participate in any manner in any of the activities or affairs of Local 851, or any other IBT entities, including, but not limited to, meetings, discussions, consultations, negotiations, votes, or any other business or activity of Local 851 and IBT Entities." The agreement was approved and entered as an order of the Court on June 20, 1994, thereby rendering Razza a person enjoined from participating in union affairs.

The charges against Razza and the agreement resolving the charges were reported in the June/July 1994 issue of *The New Teamster* magazine. During her OIS interview Nappi admitted that she was aware of Razza's agreement with the IRB resolving the charges and that under the agreement Razza was prohibited from further involvement in any union activities.

FBI Supervisory Special Agent Taylor testified at Nappi's disciplinary hearing concerning his experience and familiarity with FBI criminal investigations involving La Cosa Nostra members and associates, as well as intelligence information gathered by the FBI regarding organized crime activity. He described the general structure of La Cosa Nostra, as well as the Luchese LCN Family's control of Local 295 and Local 851, IBT. According to Alphonse D'Arco ("D'Arco"), an admitted member of the Luchese LCN Family, Anthony Calagna, former president of Local 295, and Patrick Dello Russo, former Local 295 shop steward, were members of the Luchese LCN Family, which entrusted its labor racketeering activities in the air freight industry to Calagna and later Dello Russo, including its influence and control over Local 295 and Local 851. One of the counts to which Razza pled guilty in the above-mentioned federal indictment charged that Razza conspired with Dello Russo and Calagna in committing the criminal offenses.

According to the expert opinion of FBI Supervisory Special Agent Taylor, based on his "review of FBI documents and other credible sources of information normally utilized by the FBI in organized crime investigations, Anthony Razza is considered to be an associate of the Luchese LCN Family." I credit this expert testimony and find that Razza was an associate of the Luchese LCN Family. Moreover, as noted above, Razza was also a person enjoined from participating in union affairs.

Nappi's Violation of the Consent Decree

Despite Razza's conviction on labor racketeering charges and the order barring Razza from participating in union affairs, Nappi continued her relationship and association with Razza. Nappi and others attended a summer barbecue hosted by Razza at his home in Ozone Park and met him for a drink at a restaurant/bar in Howard Beach in September 1994 shortly before Razza began serving his sentence. Razza reported to the Federal Correctional Institution at Milan, Michigan on October 3, 1994 to begin serving his term of imprisonment.

The Consent Decree was approved and signed by the Court on October 17, 1994. During her OIS interview Nappi stated that she was aware of the Consent Decree and that it had been mailed to all Local 851 members. Section I(B) of the Consent Decree enjoins all members of Local 851 from knowingly associating with any person enjoined from participating in union affairs or with any associate of an organized criminal group. Razza falls within both of these categories. Accordingly, as a member of Local 851, Nappi was enjoined from knowingly associating with Razza.

As an inmate Razza was allowed to place telephone calls to telephone numbers previously submitted to prison officials for screening. Among others, Razza submitted the home telephone number of Nappi, whom he identified as being a "friend". According to prison telephone logs, between October 25, 1994 and November 7, 1995, Razza placed a total of eleven telephone calls to Nappi's home telephone number, six in late 1994, four during January - April 1995, and one in November 1995. The federal prison maintains for a period of time tape recordings of all outgoing telephone calls made by inmates, and OIS was able to review and make duplicate copies of the recordings of the last seven of these telephone calls.

On July 18, 1996, pursuant to Section V(B), (D) of the Consent Decree, the Chief Investigator of OIS interviewed Nappi and took sworn testimony from her before a court reporter. During the interview Nappi was questioned about the nature and extent of her association with Razza while he was in prison. While admitting that she had spoken with Razza by telephone briefly on a few occasions, Nappi asserted that the conversations concerned how he was doing and other general social matters. Nappi denied that she and Razza had discussed the activities of Local 851 or any topics involving union matters, including collective bargaining agreements and negotiations, the union's health and welfare and pension funds, the activities of the Local 851 Union Trustee and business agents, and events involving Local 295.

The tape recordings of the telephone conversations between Nappi and Razza and transcripts thereof prepared by OIS were submitted as exhibits at the disciplinary hearing. During those telephone conversations Nappi and Razza discussed, among other topics, collective bargaining agreements and negotiations, the union's health and welfare and pension funds, the activities of the Local 851 Union Trustee and business agents, and events involving Local 295.

Nappi also asserted during her OIS interview that while she had sent a few letters to Razza, she had not written to Razza about Local 851 affairs, meetings or contract negotiations. However, OIS was also able to review and obtain duplicate copies of telephone calls made by Razza to other individuals, including Ellen Caponi, a Local 851 member and co-worker of Nappi at Air Express International ("AEI"), and Laurie Cellupica, a Local 851 member at another air freight company. Razza told Cellupica that he had received a letter from Nappi about a meeting between the Local 851 Union Trustee and members at AEI concerning collective bargaining negotiations. Razza also told Caponi that Nappi had told him about events at a recent Local 851 union meeting which she had attended.

Under these circumstances the overwhelming evidence establishes that Nappi knowingly associated with Razza while he was in federal prison. Nappi was admittedly aware that Razza was prohibited by the agreement entered as an order from participating in union affairs. Indeed, when Razza referred in one of their telephone conversations to Local 851's agreement that "anyone associating with anybody removed from the union could be dismissed", Nappi exclaimed that "I'll be immediately dismissed." Moreover, Nappi was on notice of allegations and information showing that Razza was an associate of organized crime, and deliberately disregarded such information in continuing to associate with Razza.

The recordings of the telephone conversations squarely contradict Nappi's sworn testimony during her OIS interview concerning the nature and extent of her conversations with Razza while he was incarcerated. Thus, I find that during the OIS interview Nappi knowingly and wilfully testified falsely and endeavored to conceal material facts concerning the nature of her association with Razza while he was in federal prison. By asserting that the conversations concerned general social matters and not union matters, Nappi sought to evade responsibility for her knowing association with Razza in violation of the Consent Decree. Nappi's undoing, however, was the circumstance that the telephone conversations were recorded and OIS was able to review and obtain duplicate copies thereof.

Accordingly, I find that Nappi obstructed the work of the Court-appointed Independent Supervisor in violation of Section I(C) of the Consent Decree by knowingly associating with Razza, a person enjoined from participating in union affairs and an associate of an organized criminal group, and by falsely testifying and endeavoring to conceal material facts during her OIS investigative interview concerning the nature and extent of her association with Razza while he was in prison.

The Imposition of Appropriate Discipline

Nappi's conduct violated critical provisions of the Consent Decree that prohibit members of Local 851 from knowingly associating with a person enjoined from participating in union affairs and an associate of an organized criminal group, and from obstructing the work of the Court-appointed Independent Supervisor. Effective enforcement of those provisions of the Consent Decree is essential if OIS is to meet its mandate of eliminating any traces of corruption, abuse and organized crime influence within Local 851. In short, members of Local 851 must either abide by these prohibitions or forfeit their union membership.

I also note that Nappi previously served on a subcommittee of the Executive Board that was charged with the responsibility of investigating the allegations against Razza and on the Executive Board that was removed by the imposition of a trusteeship following Razza's indictment. As a result, Nappi should have been acutely aware of the importance of abiding by the prohibitions of the Consent Decree as they related to Razza.

Accordingly, I find that the appropriate discipline for Nappi's violation of the Consent Decree is termination from membership in Local 851 and the IBT, a permanent bar from holding any office or position of trust within Local 851, and a permanent bar from participating in any manner in any of the activities or affairs of Local 851.

I also find that additional discipline in the form of a fine is necessary in order to deter members of Local 851 from impeding and obstructing the work of the Independent Supervisor. The failure of members of Local 851 to provide truthful information to OIS will serve to delay unnecessarily the date when we will be able to report that it is feasible to conduct elections for Local 851 officers pursuant to Section VIII of the Consent Decree. Moreover, the investigation and institution of this disciplinary proceeding involved substantial costs that must be borne by Local 851 or the IBT. Finally, at the hearing Nappi failed to recognize and accept responsibility for her conduct. As additional discipline, I find that a fine of \$2000 is appropriate.

Accordingly, as Independent Supervisor I hereby impose the following discipline for Nappi's violation of the Consent Decree: termination from membership in Local 851 and the IBT, effective as of the date of this decision; a permanent bar from holding any office or position of trust within Local 851; a permanent bar from participating in any manner in any of the activities or affairs of Local 851, including, but not limited to, meetings, discussions, consultations, negotiations, electioneering, votes, or any other business or activity of Local 851; and a fine of \$2000. Nappi is directed to make payment of the fine by sending a check payable to Local 851, IBT, to the Office of the Independent Supervisor, P.O. Box 854, New York, N.Y. 10185, within 30 days of the date of this decision¹.

¹If the fine is not paid as directed, Section V(G)(4) authorizes the Independent Supervisor to submit the decision imposing the fine to the Court to be entered as an order and judgment of the Court, and any such order and judgment may then be

Finally, pursuant to Section V(G)(1) of the Consent Decree, Nappi is advised that this decision is appealable to the United States District Court for the Eastern District of New York within fourteen days of receipt of the Independent Supervisor's decision.

Dated: August 19, 1997

Ronald E. DePetris
Ronald E. DePetris
Independent Supervisor
Local 851, IBT

enforced by execution and other procedures as provided in Rule 69 of the Federal Rules of Civil Procedure.