

**OFFICE OF THE ELECTION ADMINISTRATOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

IN RE: FRANK DEFULVIO,) Eligibility Decision 2001 EAD 215
) Issued: March 6, 2001
) OEA Case No.: E021911AT
Prospective Candidate.)
)

On February 12, 2001, Frank DeFulvio was nominated as a delegate at Local 676's nomination meeting for delegate and alternate delegate elections. By letter faxed on February 19, 2001, John R. Smith, a Local 676 member, filed a protest against DeFulvio claiming that DeFulvio was ineligible to run as a delegate because he was currently on suspended status.

Election Administrator representative Lois M. Tuttle investigated this protest.

In order to be eligible to run for delegate or alternate delegate to the IBT International Convention, a member must be in continuous good standing with his local union, with his dues paid to the local union for a period of 24 consecutive months prior to the month of the nomination with no interruption in active membership due to suspensions, expulsions, withdrawals, transfers or failure to pay fines or assessments. Article VI, Section 1(a)(1) of the Rules for the 2000-2001 IBT International Union Delegate and Officer Election.

Investigation reveals that by decision dated January 8, 2001, Teamsters Joint Council No. 53's Executive Board (hereinafter "Joint Council") determined that DeFulvio violated several provisions of the IBT Constitution and his local's bylaws while holding the office of secretary-treasurer. In doing so, it upheld two charges filed by John Jackson, the local's president, that DeFulvio had failed to fulfill his duties and responsibilities as the local's secretary-treasurer, and had required the local's maintenance worker to perform the personal service of building a bar in his home.

In its January 8 decision, the Joint Council sought to impose the following penalties on DeFulvio: a fine of \$500 payable to the local union; a six-month suspension from the office of secretary-treasurer; a three-month suspension of his membership in the local and the IBT; a bar from holding any appointed or elected position with any Teamsters entity or affiliated entity or affiliated benefit fund for the three-month period of his suspension from membership; and a bar from receiving any remuneration or gifts from any Teamsters-related entity other than benefits to which he may be entitled as a matter of law.

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DeFulvio timely appealed the Joint Council's decision to the General Executive Board and, pending resolution of his appeal, sought a stay from the imposition of penalties named therein. By decision dated February 2, 2001 IBT General President James P. Hoffa granted DeFulvio's request for a stay from the imposition of the suspension of DeFulvio's membership and the \$500 fine. The General President denied DeFulvio's request to be immediately reinstated to the office of secretary-treasurer.

The General President's February 2, 2001 decision did not explicitly address the bar on DeFulvio's ability to hold any appointed or elected position with "any Teamsters entity" for the period of his suspension from membership. However, we believe that the fact that the General President granted a stay from his three-month suspension from membership demonstrates a clear intent to grant him a stay from further penalties that would spring from such a suspension, such as being prohibited to run as a delegate or alternate delegate. Indeed, a plain reading of the decision supports the notion that the General President intended to grant DeFulvio's request to be spared the "effectiveness" of all of the penalties imposed against him pending the outcome of the appeal, so long as DeFulvio would not be immediately reinstated to the office of secretary-treasurer.

Currently, DeFulvio's appeal is still pending. Accordingly, we find that until DeFulvio's appeal is resolved, he is ELIGIBLE to run as a candidate for delegate.

The parties are directed to advise us of the General Executive Board's decision within two (2) working days of its issuance.

Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within two (2) working days of receipt of this decision. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Administrator in any such appeal. Requests for a hearing shall be made in writing, shall specify the basis for that appeal, and shall be served upon:

Kenneth Conboy
Election Appeals Master
Latham & Watkins
Suite 1000
885 Third Avenue
New York, New York 10022
Fax: 212-751-4864

Copies of the request for hearing must be served upon the parties listed above, as well as upon the Election Administrator for the International Brotherhood of Teamsters, 727 15th Street, N.W., 10th Floor, Washington, D.C. 20005, facsimile (202) 454-1501, all within the time period prescribed above. A copy of the protest must accompany the request for hearing.

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William A. Wertheimer, Jr.

William A. Wertheimer, Jr.
Election Administrator

cc: Kenneth Conboy, Election Appeals Master
J. Griffin Morgan, Atlantic Area Regional Director

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