

OFFICE OF THE ELECTION ADMINISTRATOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: TOM LEEDHAM RANK AND)	Protest Decision 2001 EAD 302
FILE POWER SLATE,)	Issued: April 12, 2001
)	OEA Case Nos. PR111502NA and
Protestor.)	PR111503NA
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The Tom Leedham Rank and File Power slate (the “Leedham slate”) filed the above-captioned pre-election protests pursuant to Article XIII, Section 2(b) of the Rules for the 2000-2001 IBT International Union Delegate and Officer Election (“*Rules*”). They allege various violations of the campaign finance provisions of the *Rules* by the Hoffa Unity slate (the “Hoffa slate”) and by various Hoffa slate candidates.

Election Administrator representatives Bruce Dubinsky, CPA and Michael Nicholson investigated the protests, along with members of the staff of Dubinsky’s accounting firm working under his supervision. We address the allegations seriatim.

1. *Acceptance of contributions from Union vendors.* The Leedham slate alleges that the Hoffa slate has improperly accepted contributions to its legal and accounting fund from union vendors. Article XI, Section 1(b)(5) of the *Rules* provides in relevant part that a “candidate may not accept or use financial support or services from ... any vendor that has performed work for the International Union or any of its subordinate bodies within the past twelve months to pay fees for legal and accounting services or for any other purpose.”¹

Noting that it “does not have access to a full list of vendors who do business with the International Union or its subordinate bodies,” the Leedham slate names a number of contributors to the Hoffa slate who it says are “known IBT vendors from whom the Hoffa campaign should be prohibited from accepting contributions[.]” The vendors named in this allegation are Merle Delancey, Merle M. Delancey and Delancey Printing; George Harbaugh and Harbaugh Hotel Management; Thomas Havey and Thomas Havey LLP; Vince Kensil and Union Labor Life Insurance Co.; Jim Manion and the Washington Court Hotel; and Dennis Walston and Concept Foundary (sic), Inc.

¹ Article XI, Section 1(b)(5) also creates a limited exception to this bar on vendor contributions:

Nothing herein shall prevent or limit legal and accounting professionals (whether or not Union vendors) from making, or a candidate from accepting or using, an in-kind contribution of legal and accounting services, so long as such services are performed in assuring compliance with applicable election laws, rules or other requirements, or in securing, defending or clarifying the legal rights of candidates.

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In addition, the Leedham slate alleges that the following contributors to the Hoffa slate may be union vendors and therefore may have made improper contributions: James Beloff and Investment Advisors; Tom Boggs and Patton Boggs LLP; Dr. Janis S. Dimonaco and Health Management Center; Jason Endicott and Program Direct Affinity Inc.; Dan Fullenkamp and First National Bank; Craig Harris and Advertising Novelty Co. Inc.; Thomas Hart and Slevin and Hart; William Jensen and Associated Administrators; Victor Kamber; Bernard Linkoff and Express Scripts; Mr. Rockman and Certified Executive Benefits; Barry Slevin and Slevin and Hart; Phillip Wellde and First National Bank; Robert E. Whitton and Whitton, Botros and Associates.

The Leedham slate proposes that “[a]s a prophylactic against this type of abuse in the future, the Election Administrator should get assurance from the Hoffa Unity Slate that there is a process by which the Hoffa Campaign identifies any prohibited vendors before accepting their contributions.” As example, the Leedham slate suggests “that such contributors be required to file certifications that they do not contract with the IBT or its affiliates. The EA should monitor that the certification process is followed, in addition to taking steps to remedy the violations already committed ...”²

The Election Administrator’s forensic accounting firm, Klausner, Dubinsky & Associates, has conducted and is continuing to conduct an audit of the contributions received by the Hoffa slate’s legal and accounting fund. Hoffa slate CCERs through CCER 3, for the period ending January 31, 2001, indicate total legal and accounting fund contributions of \$104,455. They also indicate total fund expenditures of \$34,086, exclusive of returned contributions. We have identified a total of \$36,750 in contributions to the fund from union vendors that have now been returned. In addition, we have identified \$5,000 in other contributions from union vendors to that fund that we have determined should be returned, but have not. Our investigation continues as to the union vendor status of other contributors to the Hoffa slate’s legal and accounting fund. The total legal and accounting fund contributions in this unresolved category is \$37,200.

These findings are summarized on the spreadsheets that are attached as Appendix A to this decision. They show that if all contributions that we have so far determined to be improper vendor contributions had been returned, the Hoffa slate’s legal and accounting fund would have a balance of \$28,619 at the close of CCER reporting period 3.³ However, since we have yet to determine whether \$37,200 in additional contributions are improper vendor contributions, it is possible that the fund would be in a negative cash position if these contributions are determined to have come from union vendors, and if there are not at least enough proper post-CCER 3 contributions in the fund to make up the difference. If

² On February 16, 2001, the Election Administrator published EA Form 22, entitled “IBT Vendor Status.” This form is for the use of contributors to legal and accounting funds, and provides for disclosure of information concerning union vendor status.

³ The only exception to this are two contributions totaling \$750 returned after the close of CCER reporting period 3. These returns are included in the calculations in Appendix A. To our knowledge, the refund checks have not yet cleared.

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that is so, this means that the Hoffa slate could not fund legal and accounting fund expenditures without using improper vendor contributions.

Appendix A consists of four pages. Page one is a listing of those contributors named in the Leedham slate protest in Case No. PR111502NA. That page shows the name of the contributor as listed on the Hoffa slate's CCER report, the date of the original contribution, the union vendor status associated with the contributor (with explanatory footnote references), the payee stated on the contribution refund check (if a refund has been made by the Hoffa slate), the date of any such refund check, the amount of any such refund check, the check number of any such refund check, the date any such refund check cleared, the amount of any additional balance to be refunded because of the union vendor status of the contributor, and the amount of any contribution still at issue (if union vendor status remains under investigation). Also contained on this page are references to the explanatory footnotes contained on page four of Appendix A.

Page two of Appendix A lists contributors to the Hoffa slate legal and accounting fund that were not alleged in the protest in PR111502NA as being union vendors, but whose status as union vendors is and remains under investigation. It contains the same information as provided on page one of the spreadsheet, as well as reference to the explanatory footnotes contained on page four of the appendix. Page three of Appendix A is a recap of the cash position of the Hoffa slate's legal and accounting fund through the end of the third CCER reporting period, taking into account the findings here and the matters indicated in this decision as remaining under investigation.

In order to determine union vendor status, our accountants relied on varying sources of information. First, the Hoffa slate returned a number of contributions, some before and some after the filing of protest PR111502NA. A number of these returned contributions are identifiable by the inclusion of a footnote #1 reference in the "Vendor Status" column of Appendix A, and any contribution so designated was assumed by our accountants to be returned union vendor contributions. Second, the IBT identified one Hoffa slate legal and accounting fund contributor as a union vendor, and this contributor is identifiable by the inclusion of a footnote #2 reference in the "Vendor Status" column of Appendix A. This contribution has yet to be returned.

Third, affidavits were sent to other Hoffa slate legal and accounting fund contributors, seeking information as to any union vendor status. Some of these affidavits have been completed and returned, allowing a determination by our accountants of union vendor status. Most have not, and in some cases, second requests have been made. Our investigation remains open as to all persons or entities not responding to date. The varying responses to these requests for completed affidavits are indicated by footnote references #3-7, 9 and 11 in the "Vendor Status" columns on Appendix A.⁴

⁴ The union vendor status of James Beloff/Investment Advisors remains under investigation. The contributor has been a vendor to the Teamsters Affiliates Pension Plan, which provides pension benefits to IBT affiliates' officers and employees.

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Fourth, the Hoffa slate returned other contributions to certain individuals or entities on August 9, 2000. These contributions were made by a related group of persons and entities tied to a business that signed a letter of intent with the IBT on June 21, 1999, concerning the development of internet services for IBT members. Our investigation of this arrangement and contributions related to it, not all of which have been returned, continues.

Finally, we have determined that the contributions listed on Appendix A from Dr. Ralph Foxman and Richard Vonnegort are contributions from union vendors, as explained in footnotes 10 and 11 of Appendix A.

Based on the foregoing, we GRANT the protest allegations concerning the Hoffa slate's acceptance of legal and accounting fund donations from union vendors, subject to our reservation of jurisdiction due to our ongoing investigation into this matter.⁵

In determining the appropriate remedy for the violations found to date, it must be acknowledged that all improper legal and accounting fund contributions found to date were made prior to the May 2000 adoption of the *Rules* by the IBT General Executive Board, and that union vendor contributions were not barred as such when the contributions were made. Nevertheless, once the *Rules'* prohibition on union vendor contributions was adopted, the Hoffa slate had a duty to ensure that no legal and accounting fund contributions were from union vendor sources. While the Hoffa slate has taken steps in that direction, full compliance with the prohibition of union vendor contributions has yet to be achieved. Accordingly, we order the Hoffa slate to a) immediately return all unreturned vendor contributions identified as such on Appendix A to the identified contributor; b) provide proof of payment of each such refund to the Election Administrator no later than April 20, 2001, c) in order to prevent use of improper contributions, establish an escrow account specifically for compliance with this order and immediately deposit in that account an amount equal to all other contributions listed on Appendix A where the union vendor

⁵ The Leedham slate also alleges in PR111502NA that the Hoffa slate misstated the source of certain legal and accounting fund protests as individuals, rather than the businesses with which those individuals were associated. This occurred in some instances, and we therefore GRANT this protest allegation and order the Hoffa slate, to the extent that it has not already done so, to amend its CCERs on or before April 20, 2001 in all instances where this has occurred. In so ordering we note that some of the misidentifications occurred as a result of the Hoffa slate's inclusion of the business following the name of the related individual, so that the business appeared as part of that individual's address. We also note that the issue of misidentification of contributors allegations made by the Leedham slate is subject to our continued investigation of the Affinity and other contributions, as discussed in text at page 6, *infra*. Moreover, additional allegations regarding such conduct made in other protests against the Hoffa slate remain under investigation. Our order here is directed to all such instances of misidentification, including any that may be subject to our ongoing investigations. Those ongoing investigations may or may not result in a finding of further violations. Any further violations found, even if corrected pursuant to our order here, may result in the imposition of additional remedies.

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status of the contributor is designated as unresolved, such funds to be held in escrow and not withdrawn or expended pending such resolution by the Election Administrator;⁶ d) provide to the Election Administrator all records within its possession or control that relate to the contributions and contributors listed on Appendix A (other than those indicated thereon as not being union vendors); e) upon the request of the Election Administrator, send a written request of full cooperation with the Election Administrator to any party identified by the Election Administrator as having information related to his ongoing investigation in the matter of vendor contributions to the Hoffa Unity slate; and f) file an affidavit of compliance with the Election Administrator by April 20, 2001, along with such supplemental affidavits of compliance as are appropriate. The Election Administrator reserves the right to impose additional remedies as the investigation in this matter continues.

2. Article XI, Section 1(b)(5) of the *Rules* establishes a \$10,000 legal and accounting fund contribution limit applicable to nonmembers, disinterested employers, foundations or labor organizations. The Leedham slate alleges that the Hoffa slate improperly accepted campaign contributions greater than the \$10,000 limit and failed to promptly return those contributions. The Leedham slate also alleges that the Hoffa slate improperly reported campaign contributions in a format designed to conceal the fact that the contributions were in excess of the allowable limit and from corporate funds rather than individual funds.

Our investigation revealed that the Hoffa slate received a \$25,000 contribution from Affinity Systems, Inc. on September 15, 1999. (The Affinity Systems contribution remains under investigation as a possible union vendor contribution, along with other potentially related contributions, all of which are listed as such on Appendix A.) Accountant Dubinsky notified the Hoffa campaign on August 7, 2000 that this contribution exceeded the allowable \$10,000 limit. The campaign returned \$15,000 to Affinity on August 9, 2000, along with additional contributions from business associates of the Affinity enterprise, even though none of those contributions by themselves exceeded \$10,000.

The Affinity contributions were made before the adoption of the *Rules*, and at a time when the \$10,000 limit was not in place. However, when the Affinity contributions were reported on the Hoffa slate CCERs, they were not aggregated, even though they were received from individuals who appear to have been engaged in a common business

⁶ This remedy parallels the treatment of unverified member contributions required by Article XI, Section 2 (b)(2)(B) of the *Rules*, and is also appropriate given the requirements of Article XI, Section 2 (b)(2)(A). To the extent that the assets of the Hoffa slate's legal and accounting fund are depleted by the escrow payments, the Hoffa slate must make additional payments into escrow from its general campaign fund. It may also fund legal and accounting expenses from its general campaign fund as a result of any such depletion of legal and accounting fund assets. If contributions that have resulted in the escrow are determined to be proper, they will be returned to the Hoffa slate, which may then reimburse its general campaign fund for any payments from it as a result of the foregoing.

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enterprise. Such aggregation is required when contributions are from parties engaged in a common business enterprise, since for reporting purposes we look at the underlying economic reality of the contribution source. In this regard, one need look no further than the Internal Revenue Code, which provides for aggregation for tax purposes when common control is present. For instance, to prevent avoidance of the \$15,000 limit on qualified zone wages, all employers of a controlled group of corporations (or partnerships or proprietorships under common control) are treated as a single employer.⁷ Code sections 52(a) and (b) treat employees of certain employers as employed by the same employer for purposes of the work opportunity credit, and similar treatment is provided for purposes of the federal empowerment zone employment credit.⁸

The tax code defines a "controlled group" of corporations, for purposes of the limitations on the tax benefits of component members of the group, as a group of two or more corporations connected through stock ownership. In determining whether a corporation is a member of a brother-sister controlled group, stock owned directly and indirectly by or for a corporation is considered owned proportionately by any "person" who owns 5% or more in value of the corporation's stock.⁹ Attribution is in the proportion of the value of the shareholder's stock in the corporation to the value of all stock in the corporation. In determining whether a shareholder owns 5% or more in value of the corporation's stock, all the constructive ownership Rules for brother-sister groups apply.¹⁰ There are many other mentions throughout the tax code of similar definitions where the purpose was to limit or prevent circumvention of dollar value limits of benefits or credits, or to limit prohibited transactions.

We believe aggregation of contributions for reporting and contribution limit purposes should also apply where a contribution is received from an "individual" who is so closely related to a business entity, whether it be a corporation, partnership or other venture, that in effect, the contribution can be attributed to the business entity and not the individual. When an individual has the ability to influence enough control over a business entity to cause the entity to distribute funds to the individual, and the individual then makes a purported allowable contribution to a legal and accounting fund, the intent of the *Rules* has clearly been circumvented. Accordingly, the Election Administrator published a memorandum adopting this approach on February 16, 2001.

A number of the contributions received by the Hoffa slate's legal and accounting fund were paid with corporate checks and then reported as individual contributions. Certain other contributions were received via individual checks and appear to have been made by the owners of a business entity that may be a union vendor. Our ongoing investigation into the Affinity contributions and other possible union vendor contributions to the Hoffa slate will also examine the question of whether the Hoffa slate violated the

⁷ Conference Report No. 103-213 (PL 103-66) p. 713.

⁸ Code Sec. 1397(b)(1).

⁹ Code Sec. 1563(d)(2)(A) & Code Sec. 1563(d)(2)(B).

¹⁰ Code Sec. 1563(e)(4).

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Rules by failing to aggregate legal and accounting fund contributions for contribution limit and reporting purposes. Accordingly, a decision as to this Leedham slate allegation is DEFERRED pending further investigation, as are other matters relating to the Affinity contributions.

3. The protest in PR111502NA also alleges that either James P. Hoffa or the Hoffa slate failed to timely file their CCER #1 and CCER #2 with the Office of the Election Administrator. The cover sheet for the CCER form directs the filer to indicate whether the filing is made on behalf of an individual candidate, a slate or an independent committee. Both filings made by the Hoffa slate incorrectly indicated that the filing was being made by the individual candidate for General President rather than on behalf of the Hoffa slate. This was in error, and when questioned about the mistake, the Hoffa slate indicated that the Election Administrator's electronic Campaign Finance Reporting System had erroneously checked the box on the form for the individual candidate box rather than the slate. That system as originally designed for the Election Administrator had several defects that resulted in inaccurate presentation of filing information. Those defects have now been corrected.

Even so, it is the responsibility of the candidate to ensure that the CCER filing is accurate in all respects. The software provided by the Election Administrator was merely to aid the candidates in the preparation of the CCER forms as required under the Rules for the 2000-2001 IBT International Union Delegate and Officer Election. Each candidate, slate or committee has strict liability under the Rules to comply with the Rules as adopted by the court. Since the time of the filing of this protest, the Hoffa slate has corrected these CCER filing errors by amending their filings to indicate that they are from the slate. Further, CCER's have been filed by individual candidate James P. Hoffa, and indicate no CCER reportable activity by the individual candidate. Accordingly, we deem this protest allegation by the Leedham slate to be RESOLVED.

4. The Leedham slate alleges in PR111502NA that IBT Secretary-Treasurer C. Thomas Keegel filed a legal and accounting Supplemental Form 1 labeled as a slate report, which disclosed a transfer of \$10,144.99 in election funds from a prior election. Such transfers are not permitted, see *Friends of Tom O'Donnell Election Committee*, 2001 EAD 253 (March 21, 2001), and Keegel was so notified. In response, Keegel contributed the money in question to charity.¹¹ Given Keegel's action, we deem this protest allegation RESOLVED.

5. The Leedham slate also alleges that four members of the Hoffa slate have never filed individual CCER reports for CCER reporting period #1 or #2, yet the Hoffa slate's CCER reports \$29,000 in "transfers" from these candidates and inaccurately states that those funds had been reported on the individual candidates CCER's. The Leedham

¹¹ Contrary to the protestor's claim, the funds were not excess Hoffa slate funds from prior elections.

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slate also alleges that other Hoffa slate members have not filed a CCER for the initial reporting period, although the *Rules* require a CCER for each reporting period regardless of inactivity.

Our investigation revealed that the following contributions were reported on CCER #2 by the Hoffa slate:

Hoffa/Bouvier	\$6,591.00
Hoffa/McLean	\$6,591.00
Hoffa/Zimmerman	\$6,591.00
Hoffa/Cadiz	\$10,000.00

Timely individual CCER reports were not filed by candidates Robert Bouvier, Joseph McLean, Garnet Zimmerman or José Cadiz. While Article XI, Section (1)(b)(9)(B) of the *Rules* permits funds to be transferred between International officer candidates, that provision does not release the transferring candidate from filing a CCER report, even where all of the candidate's campaign funds have been properly transferred. Accordingly, we GRANT the protest allegation. We order each of these four candidates to file CCER reports by April 20, 2001 for reporting periods one through three, to the extent they have not already done so, and further order that all future reports be timely filed.

6. The Leedham slate alleges that Hoffa slate individual candidates Hoffa, Cipriani and DeSanti did not personally sign their individual CCER or Supplemental Form 1 reports. Article XI, Section (2)(b)(2)(c) of the *Rules* requires that individual candidate CCER filings (including Supplemental Form 1) must be signed by the IBT member.

Candidate James P. Hoffa did, in fact, ultimately sign his individual CCER filings as required under the *Rules*. The confusion apparently stems from the initial filings made by the Hoffa 2001 Slate, which were inadvertently marked as "individual" filings when they should have been marked as "slate" filings. Accordingly, they were intended to be slate filings and as such, were not signed by James P. Hoffa but rather were properly signed by the treasurer of the slate, Mr. Robert Rayes.¹² Accordingly, we deem the protest allegation as to candidate Hoffa RESOLVED.

The DeSanti CCER filing stated that it was by the "Hoffa/DeSanti Slate 2001." It was, however, DeSanti's filing as individual candidate, as indicated on the cover sheet for the CCER. The CCER was not signed DeSanti, as required by the *Rules*, but by the campaign's treasurer. We accordingly GRANT the protest allegation against DeSanti and order him to file individual CCERs that are signed by individual candidate DeSanti by April 20, 2001.

¹² The individually signed Hoffa filings were received by the Election Administrator on December 22, 2000.

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Our investigation determined that the CCER report filed by candidate Jack Cipriani was intended to be an individual filing. Accordingly, the CCER report must be signed by Cipriani, rather than by Bob Royals, the treasurer for the Cipriani campaign. We will thus GRANT the protest allegation and order Cipriani, to the extent he has not already done so, to file CCERs by April 20, 2001 that are signed by him and that indicate that they are filed by him as an individual candidate.

7. The Leedham slate alleges that the Hoffa slate's initial Supplemental Form 1 improperly failed to include required information stating the occupation and employer name of each non-IBT member contributor, and that slate candidate Fred Gegare's reports failed to list required addresses of contributors.

The missing information that relates to this protest allegation was, according to the campaigns, not supplied because the Election Administrator's electronic Campaign Finance Reporting System did not allow it to be inputted. This does not relieve the campaigns of their responsibility to file complete reports, as discussed above. Accordingly, we GRANT the protest allegation and order the candidates to file, to the extent they have not already done so, amendments to the questioned CCERs that provide the missing information. These amended forms must be filed with the Election Administrator by April 20, 2001.

8. The Leedham slate alleges that the Hoffa slate's CCER 2 contains a discrepancy in Summary Item 15 with respect to reconciliation of bank statements. At the time the CCER report was filed, the Campaign Finance Reporting System did not properly handle the bank reconciliation routine. This problem has since been corrected by the Election Administrator and updated software has been provided to those who are utilizing the system. During our field audit investigation, we were provided with hand prepared bank reconciliations that allowed us to verify the receipt and disbursement of funds by the campaign. As stated above, however, the campaign should carefully review its filings, whether prepared by hand, utilizing the Campaign Finance Reporting System or another computer aided program, to insure compliance with all reporting requirements pursuant to the Rules. We deem this protest allegation RESOLVED.

9. The Leedham slate alleges that Hoffa slate CCER 2 contains a discrepancy in Summary Item 10 ("Totals to Date"). It notes that the sum of the previously reported activity on CCER 1 (\$44,799.18) plus the "total this period" for CCER 2 (\$27,618.09) add up to \$72,417.27, which is about \$1,300 less than the "Totals To Date" reported on the CCER (\$73,722.68). The Leedham slate claims that this discrepancy indicates unreported expenses and/or failure to reconcile to bank balances.

During our field audit of the Hoffa slate, we discovered this discrepancy and brought it to the attention of the accountant for the Hoffa slate campaign. The discrepancy related to expenses for a fundraiser held in Chicago on or about March 13, 2000. The expenses for this fundraiser were not forwarded to the campaign for at least two and one-half months, until after the filing of CCER 1. When the expenses were received and

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inputted into the Campaign Finance Reporting System during the second CCER reporting period, the date entered for the expenditure was before the beginning of that period. As a result, the program mishandled the totals for the year-to-date column and produced a reconciliation error. The Hoffa slate's accountant was able to reconcile the discrepancy to the satisfaction of the auditors during the field audit. Based upon the foregoing, we GRANT the protest allegation because of the untimely submission of expenses to the campaign, and order the campaign and its agents to timely report such data in the future.

10. The Leedham slate also alleges that the Hoffa slate has failed to file required vendor reports as to vendors from whom the slate obtained goods or services greater than \$5,000. Article XI, Section 2(c) of the *Rules* requires that a candidate, slate or independent committee that:

pays or contracts for goods or services for the 2000-2001 IBT International Union Delegate and Officer Election in an aggregate amount of \$5,000 or more from a vendor that has performed work for the IBT or any of its subordinate bodies within the past 12 months, shall file a disclosure ("vendor report"), on a form provided by the Election Administrator, which shall set forth the terms of the agreement or payment and the identity of the IBT bodies for which the vendor has worked. Such disclosure does not apply to banks, telephone companies, utility companies or the United States or Canadian postal services.

Our investigation determined that, as alleged, a required Vendor Disclosure Report was not filed by the Hoffa slate for its accounting firm, Kushner, Chupak, Kippelman & Taub, PC, until November 27, 2000, after the protest was filed. (A vendor report for the Washington Court Hotel was filed before the filing of the protest.) The *Rules* do not provide for a time deadline for such filings. However, such reports must be filed within a reasonable period following occurrence of the reportable event. The Hoffa slate campaign claimed that the non-timely filing of the required vendor report was an oversight. That does not excuse the untimely filing. Accordingly, we GRANT the protest allegation. We order the Hoffa slate to timely file all required vendor reports as required by Article XI, Section 2(c).

11. The Leedham slate alleges that the Hoffa slate accepted improper contributions and failed to report an extension of credit from Tom Ferguson, the landlord of a building in Berwyn, Illinois that has been rented by the Hoffa campaign. Hoffa slate CCER 1 reports expenditures of \$7,591 to Tom Ferguson in January and February 2000 for "1999 Chicago office rent." Hoffa slate CCER 2 reports an additional \$4,800 paid on 7/21/00 for "Lease payments- Chicago office 1-8/00." The building in question is located next to IBT Local 714. The amount reported on CCER 2 indicates that the building is rented by the Hoffa slate for \$600 per month.

The Leedham slate alleges that the CCERs indicate that the landlord did not collect rent on the building for 1999 occupancy until the beginning of 2000, and that after

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February 2000 the landlord allowed eight months to go by before again collecting rent. In addition, says the Leedham slate, Hoffa slate CCER did not report any extension of credit for the period ending May 31, 2000, despite the \$3,000 in rent owing at that time.

Ferguson was involved in a similar situation found in *Thompson*, PR41 (March 4, 1998) to be violative of the *Rules*. There, Ferguson and a candidate entered into an arrangement for building rental and allowed rent to be paid in a lump sum after a period of months, as here. The arrangement was found to be on terms that were not commercially reasonable. As a result, the Election Officer ordered that the delayed lump sum payments of rent be reported on the candidate's CCER as an extension of credit, and also ordered the candidate to pay \$100 to Ferguson as a liquidated amount reflecting estimated interest on the delayed payments.

The Hoffa slate has amended its CCER to reflect the \$3,000 extension of credit by Ferguson. As in *Thompson, supra*, however, we find that this is insufficient to remedy the *Rules* violation, given the commercially unreasonable terms on which the Illinois premises were rented. We accordingly GRANT the protest allegation and order the Hoffa slate to pay \$150 to Ferguson from its general campaign by April 20, 2001. This amount is calculated to reflect interest that would have been reasonably due over the seven months of deferred monthly rent payments. Within one (1) day of making this payment, the Hoffa slate shall file an affidavit of compliance, along with a copy of the check and transmittal letter to Mr. Ferguson. Once cleared, the Hoffa slate shall provide a copy of the cancelled check to the Election Administrator.

12. The Leedham slate alleges that the Hoffa slate failed to properly report a fundraiser allegedly held on Monday, March 13, 2000 and failed to include a copy of the flyer advertising such event. The Hoffa slate reported a fundraiser held on March 22, 2000 in Chicago at the Ramada Hotel O'Hare Rosemont I. (See CCER 2, Supplemental Form #1, Addendum #1) The fundraiser was actually held on March 13, 2000. According to CCER 1, 113 people attended, \$11,500 in contributions were received and expenses of \$564 were incurred. The flyer for the event did not state the campaign contribution limitations. It did state that "donations are limited to Teamster members only and that contributions from any other source will not be accepted".

The Hoffa slate did not report the fundraiser on CCER 1 because the individual who collected the money did not submit the funds to the slate's office until June 2000. The funds raised were deposited in the campaign's bank account on June 27, 2000. Upon examination of the contributions, we found copies of the tickets for the fundraiser attached to the deposit slips. The tickets do not appear to be pre-numbered. We traced the contributions from the deposit slips to the CCER, and we traced the deposit slips to the bank statements and tied the deposit slips into the total contributions per the CCER. We did not note any discrepancies in our testing. The Hoffa slate indicated that the confusion as to the dates was a mistake and amended its CCER accordingly. We deem this allegation RESOLVED.

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13. In Case No. PR111503NA, the Leedham slate alleges that Hoffa slate candidates Randy Cammack and James Santangelo failed to file individual CCER reports and instead submitted combined reports. The *Rules* require that each candidate file individual CCER reports, even where there is no activity. See Article XI, Section 2(a)(1).

When questioned about the joint filings, the accountant for the campaigns stated that Santangelo/Cammack filed joint CCERs because they hold all of their fundraising events together and it would be difficult to allocate the expenses and contributions received between the two candidates. The campaign was advised during our field audit that the joint filing did not comply with the *Rules*. The campaign accountant responded by seeking permission to continue the joint filing for their activity, and stating that the two candidates would begin filing individual reports reflecting no activity with the next report deadline.

The *Rules* are clear that every candidate must file the appropriate forms for compliance with the *Rules*. The fact that two candidates hold “joint” fundraisers should not preclude the candidates from filing their own CCER reports. If, in fact, all of the monies are raised equally on a joint basis, then one-half of all activity should be reported on each CCER filing by each candidate. Accordingly, we deny the request for permission to file joint filings accompanied by no-activity CCERs for the individual candidates. We GRANT the protest allegation and order Cammack and Santangelo to file individual CCERs prospectively and retroactive to the first CCER reporting period, to the extent they have not already done so. The retroactive CCERs must be filed with the Election Administrator by May 1, 2001.

14. The Leedham slate also alleges in PR111503NA that Cammack/Santangelo fundraisers have been reported that appear to coincide with many IBT sponsored events. The Leedham slate argues that these fundraisers “appear on their face to be the result of an abuse or misuse of union resources since there is no evidence of campaign expenditures to solicit the attendance and contributions of persons who were present on alleged ‘union business.’ ”

Our investigation revealed no evidence of misuse of union resources. Instead, the fundraising events, while held to coincide with union events, involved no use of union resources. For example, one fundraiser coincided with a Local 63 Labor Day Picnic, where the campaign solicited contributions for Santangelo/Cammack in the parking lot outside the event. At another event, a July Fourth picnic sponsored by IBT locals in California, the campaign again solicited campaign contributions in the parking lot outside the event from those who were attending the function. At local union business agent meetings and membership meetings, the campaign again set up its campaign contribution solicitors outside the meeting place and sought campaign contributions from those attending the functions. We accordingly DENY this protest allegation.

15. The protest in PR111503NA also alleges that Cammack’s campaign improperly reported the contributions it received from the events discussed in part 14 above as contributions at a fundraising event, while reporting no expenses. We DENY this

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protest allegation because we uncovered no evidence of unreported expenses for these activities.

16. Protest PR111503NA further alleges that:

Cammack's fundraising materials contain statements soliciting contributions to either regular or L & A Funds. Given these statements, there is an inference raised that Cammack is not properly segregating donations and is not properly earmarking L & A contributions. Any L & A contributions which have not been properly earmarked must consequently be returned.

We have examined the Santangelo/Cammack contribution solicitations. They state that "all proceeds will go either to the Santangelo/Cammack Campaign Fund or Santangelo/Cammack Legal & Accounting Fund." During the field audit we conducted, we examined all of the contributions to the legal and accounting fund to verify that the contributions were earmarked for legal and accounting. There were no noted exceptions, all of the legal and accounting funds were properly earmarked. We also tested a sample of campaign contributions, and found no instances where it appeared that the contribution was earmarked for legal and accounting and was deposited into general campaign funds. Accordingly, we DENY this protest allegation.

17. The protest in PR111503NA also alleges "the Cammack/Santangelo Supplemental Form #1 fails to include the "Name of employer & occupation (if not IBT member)" for each contributor as required by the form." This is important information needed for any meaningful review of the list of contributors." Our investigation confirmed this allegation.

Schedule A-1, Part 1 of Supplemental Form 1 requires that each contributor's employer and occupation be identified if the contributor is not an IBT member. The reporting problems caused by the Election Administrator's electronic Campaign Finance Reporting System do not excuse the failure to report. Accordingly, we GRANT this protest allegation and order Cammack and Santangelo to file CCERS that contain this information by May 1, 2001.

The orders of the Election Administrator contained herein take immediate effect unless otherwise stayed. *Lopez*, 96 EAM 73 (February 13, 1996).

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 the appeal, and shall be served upon:

Tom Leedham Rank and File Power Slate, 2001 EAD 302

April 12, 2000

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 all other parties, as well as upon the Election Administrator for the International Brotherhood of Teamsters, 727 15th Street NW, Tenth Floor, Washington, DC 20005 (fax: 202-454-1501), all within the time prescribed above. A copy of the protest must accompany the request for hearing.

William A. Wertheimer, Jr.

William A. Wertheimer, Jr.
Election Administrator

cc: Kenneth Conboy
2001 EAD 302

April 12, 2000

DISTRIBUTION LIST VIA UPS NEXT DAY AIR:

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Bingham Farms, MI 48025

Barbara Harvey
Penobscot Building
Suite 1800
645 Griswold
Detroit, MI 48226

Betty Grdina
Yablonski, Both & Edelman
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Washington, D.C. 20036

Tom Leedham c/o Stefan Ostrach
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Eugene, OR 97404

Bruce Dubinsky
Klausner, Dubinsky & Associates
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Bethesda, MD 20814

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General-Secretary-Treasurer
International Brotherhood of Teamsters
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Washington, DC 20001-2198

Randy Cammack
IBT Local 63
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Covina, CA 91724-3624

Fred Gegare
IBT Local 75
1546 Main Street
Green Bay, WI 54302

José Cadiz
IBT Local 901
352 Del Parque St.
San Juan, PR 00912-3702

Jack Cipriani
IBT Local 391
3100 Sandy Ridge Road
Colfax, NC 27235

Dan DeSanti
IBT Local 701
2003 U.S. Route No. 130
Suite B
North Brunswick, NJ 08902

Jim Santangelo
IBT Local 848
9960 Baldwin Place
El Monte, CA 91731-2288

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Teamsters Canada
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Canada

Tom Leedham Rank and File Power Slate, 2001 EAD 302

April 12, 2000

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Garnet Zimmerman
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Canada

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Bingham Farms, MI 48025-4540

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Norris & Reisselbach
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Carlisle, MA 01741

George Harbaugh
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Tom Leedham Rank and File Power Slate, 2001 EAD 302

April 12, 2000

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4301 Garden City Drive
Landover, MD 20785

John Irvine
WebGalaxy, Inc.
860 George Dr.
Silver Springs, MD 20910

John S. Irvine
905 Mallard Circle
Arnold, MO 21012

William Jensen
Associated Administrators
10626 York Road
Cockeysville, MD 21030

Victor Kamber
Address unknown – awaiting new
address

Vince Kensil
Union Labor Life Insurance Co.
111 Massachusetts Ave. NW
Washington, DC 20001

Bernard Linkoff
Express Scripts
14000 Riverport Drive
Maryland Heights, MO 63043

Jim Manion
Washington Court Hotel on Capitol Hill
525 New Jersey Ave. NW @ Capital Pl.
Washington, DC 20001

Thomas R. McNutt
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address

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1725 De Sales Street
Washington, DC 20036

Theodore Pappas
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Mr. Rockman
Certified Executive Benefits
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Hackensack, NJ 07601

James Savarese
James Savarese And Associates
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1947 Camino Vida Roble
Carlsbad, CA 92009

Michael A. Schaffer
7690 El Camino
Carlsbad, CA 92009

Tom Leedham Rank and File Power Slate, 2001 EAD 302

April 12, 2000

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Washington, DC 20036

Richard Vonelgort
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Dennis Walston
Concept Foundry, Inc.
4731 Elm Street
Bethesda, MD 20814

Phillip Wellde
First National Bank
1970 Chainbridge Rd.
McLean, VA 22102

INTERNATIONAL BROTHERHOOD OF TEAMSTERS
ELECTION COMPLIANCE AUDIT - HOFFA SLATE
SUMMARY OF LEGAL & ACCOUNTING CONTRIBUTIONS
PROTEST #PR111502NA

NAME OF CONTRIBUTOR AS REPORTED ON CCER	DATE OF ORIGINAL CONTRIB.	AMOUNT OF CONTRIB.	VENDOR STATUS	PAYEE ON RETURNED CHECK	DATE OF RETURNED CHECK	AMOUNT OF RET. CHECK	CHECK NUMBER RET. CK.	DATE RET. CHECK CLEARED	BALANCE TO BE RETURNED	AMOUNT STILL AT ISSUE
DELANCEY, MERLE DELANCEY PRINTING PRESIDENT	9/21/99	\$1,000	Y ¹	MERLE DELANCEY	12/20/00	\$1,000	2078	2/13/01	\$0	\$0
DELANCEY, MERLE DELANCEY PRINTING ATTORNEY	9/21/99	\$1,000	Y ¹	MERLE DELANCEY	12/20/00	\$1,000	2079	2/13/01	\$0	\$0
HARBAUGH, GEORGE HARBAUGH HOTEL MGMT. CORP.	9/15/99	\$1,000	Y ¹	GEORGE HARBAUGH	12/20/00	\$1,000	2080	1/2/01	\$0	\$0
HAVEY, THOMAS	9/15/99	\$3,000	Y ¹	THOMAS HAVEY, LLP	9/15/00	\$3,000	2062	10/12/00	\$0	\$0
KENSIL, VINCE UNION LABOR LIFE INS. CO.	9/21/99	\$2,000	Y ¹	VINCE KENSIL	12/20/00	\$2,000	2081	1/18/01	\$0	\$0
MANION, JIM	9/20/99	\$1,000	Y ¹	WASH. COURT HOTEL	1/11/01	\$1,000	2084	1/22/01	\$0	\$0
WALSTON, DENNIS CONCEPT FOUNDRY, INC.	9/7/99	\$1,000	Y ¹	DENNIS WALSTON	12/20/00	\$1,000	2083	1/5/01	\$0	\$0
BELOFF, JAMES INVESTMENT ADVISORS	9/27/99	\$1,000	U ¹⁴							\$1,000
BOGGS, TOM PATTON BOGGS LLP	9/27/99	\$5,000	U ³							\$5,000
DIMONACO, JANIS S. DR HEALTH MANAGEMENT CENTER	9/27/99	\$2,000	U ³							\$2,000
ENDICOTT, JASON PROGRAM DIRECT AFFINITY INC.	9/27/99	\$200	U ³							\$200
FULLENKAMP, DAN FIRST NATIONAL BANK	9/27/99	\$1,000	U ³							\$1,000
HARRIS, CRAIG ADVERTISING NOVELTY CO INC	9/27/99	\$1,000	Y ²						\$1,000	\$0
HART, THOMAS SLEVIN AND HART, P.C.	9/27/99	\$1,000	Y ⁵						\$1,000	\$0
JENSEN, WILLIAM ASSOCIATED ADMINISTRATORS	9/27/99	\$1,000	N ⁶							\$0
KAMBER, VICTOR	9/27/99	\$1,000	U ⁷							\$1,000
LINKOFF, BERNARD EXPRESS SCRIPTS	9/27/99	\$1,000	N ⁶							\$0
MR. ROCKMAN CERTIFIED EXECUTIVE BENEFITS	9/27/99	\$1,000	U ³							\$1,000
SLEVIN, BARRY SLEVIN AND HART, P.C.	9/27/99	\$1,000	Y ⁵						\$1,000	\$0
WELLDE, PHILLIP FIRST NATIONAL BANK	9/27/99	\$1,000	U ⁴							\$1,000
WHITTON, ROBERT E. WHITTON, BOTROS & ASSOC., P.C.	7/20/00	\$1,000	U ⁷							\$1,000
TOTAL		\$28,200				\$10,000			\$3,000	\$13,200

INTERNATIONAL BROTHERHOOD OF TEAMSTERS
 ELECTION COMPLIANCE AUDIT - HOFFA SLATE
 SUMMARY OF LEGAL & ACCOUNTING CONTRIBUTIONS
 ANALYSIS OF ADDITIONAL CONTRIBUTIONS

NAME OF CONTRIBUTOR AS REPORTED ON CCER	DATE OF ORIGINAL CONTRIB.	AMOUNT OF CONTRIB.	VENDOR STATUS	PAYEE ON RETURNED CHECK	DATE OF RETURNED CHECK	AMOUNT OF RET. CHECK	CHECK NUMBER RET. CK.	DATE RET. CHECK CLEARED	BALANCE TO BE RETURNED	AMOUNT STILL AT ISSUE
IRVINE, JOHN AFFINITY SYSTEMS, INC.	9/15/99	\$25,000	U ⁸	AFFINITY SYSTEMS, INC.	8/9/00	\$15,000	2055	9/15/00		\$10,000
IRVINE, JOHN WEB GALAXY, INC.	9/20/99	\$3,000	U ⁸	WEB GALAXY, INC.	8/9/00	\$3,000	2056	9/5/00		\$0
IRVINE, JOHN	9/15/99	\$5,000	U ⁸	JOHN S. IRVINE	8/9/00	\$5,000	2057	9/15/00		\$0
SCHAFFER, MICHAEL A.	9/15/99	\$1,000	U ⁸	MICHAEL A. SCHAFER	8/9/00	\$1,000	2059	10/4/00		\$0
SCHAFFER, MICHAEL ACUBID.COM	9/15/99	\$10,000	U ⁸							\$10,000
PAPPAS, THEODORE	9/27/99	\$1,000	Y ¹	THEODORE PAPPAS	9/29/00	\$1,000	2063	11/20/00		\$0
PAPPAS, JOHN T.	9/27/99	\$1,000	Y ¹	JOHN T. PAPPAS	9/29/00	\$1,000	2064	11/6/00		\$0
DWYER, MATTHEW	10/14/99	\$500	Y ¹	MATTHEW E. DWYER	4/3/01	\$500	2096			\$0
FUSSELL, JOHN	10/13/99	\$250	Y ⁹	ROBERT M. CHEVERIE PC	4/9/01	\$250	2099			\$0
FOXMAN, RALPH DR.	9/16/99	\$1,000	Y ¹⁰						\$1,000	\$0
FULLER, JEFFREY R. REINHART, BOERNER, VAN DUUREN, NORRIS & REISSELBACH	9/17/99	\$1,000	N ⁶							\$0
MCNUTT, THOMAS R.	9/15/99	\$1,000	U ⁷							\$1,000
SAVARESE, JAMES JAMES SAVARESE & ASSOC.	9/17/99	\$1,000	U ⁷							\$1,000
VONELGORT, RICHARD	9/14/99	\$1,000	Y ¹¹						\$1,000	\$0
ADES, ROBERT ROBERT ADES & ASSOC, P.C.	9/13/99	\$1,000	N ⁶							\$0
AKMAN, ALVIN AVLIN AKMAN & ASSOC.	9/21/99	\$2,000	U ¹²							\$2,000
TOTAL		\$54,750				\$26,750			\$2,000	\$24,000

**INTERNATIONAL BROTHERHOOD OF TEAMSTERS
ELECTION COMPLIANCE AUDIT - HOFFA SLATE
ANALYSIS OF LEGAL & ACCOUNTING ACTIVITY**

TOTAL LEGAL & ACCOUNTING CONTRIBUTIONS CCER 1	\$ 102,255
TOTAL LEGAL & ACCOUNTING EXPENSES CCER 1	(5,286)
TOTAL LEGAL & ACCOUNTING CONTRIBUTIONS CCER 2	2,100
TOTAL LEGAL & ACCOUNTING EXPENSES CCER 2	(4,725) ¹³
TOTAL LEGAL & ACCOUNTING CONTRIBUTIONS CCER 3	100
TOTAL LEGAL & ACCOUNTING EXPENSES CCER 3	(24,075) ¹³
LESS RETURNED L&A CONTRIBUTIONS TO DATE	(36,750)
LESS LEGAL & ACCOUNTING CONTRIBUTIONS FROM VENDORS TO BE RETURNED	<u>(5,000)</u>
FUND BALANCE AFTER RETURNED CONTRIBUTIONS	<u><u>\$ 28,619</u></u>

SEE FOOTNOTES ATTACHED

INTERNATIONAL BROTHERHOOD OF TEAMSTERS
ELECTION COMPLIANCE AUDIT - HOFFA SLATE
SUMMARY OF LEGAL & ACCOUNTING CONTRIBUTIONS
FOOTNOTE KEY

FOOTNOTES DESCRIPTION

- 1 ASSUMED TO BE VENDORS SINCE THE CONTRIBUTIONS WERE RETURNED BY THE HOFFA CAMPAIGN
- 2 DETERMINED BY IBT TO BE A VENDOR
- 3 SENT VENDOR AFFIDAVIT ON 2/19/01
SENT 2ND REQUEST VENDOR AFFIDAVIT ON 3/28/01
AS OF 4/9/01 NO RESPONSE; UNION VENDOR STATUS UNDER INVESTIGATION
- 4 RECEIVED ADDRESS ON 3/30/01 FROM GARY KUSHNER, CPA
SENT VENDOR AFFIDAVIT ON 4/9/01; UNION VENDOR STATUS UNDER INVESTIGATION
- 5 PER VENDOR AFFIDAVIT RECEIVED ON 3/19/01, SLEVIN & HART, P.C.
BEGAN PROVIDING SERVICES TO IBT LOCAL UNION 522 ON THE
SAME DAY THEY CONTRIBUTED TO HOFFA LEGAL & ACCOUNTING
- 6 PER VENDOR AFFIDAVIT, CONTRIBUTOR DID NOT PERFORM ANY WORK
DIRECTLY FOR THE IBT OR ANY OF ITS SUBORDINATE BODIES
- 7 VENDOR AFFIDAVIT WAS RETURNED FOR INCORRECT ADDRESS;
UNION VENDOR STATUS UNDER INVESTIGATION
- 8 CONTRIBUTIONS WERE RETURNED BY HOFFA SLATE FOR EXCEEDING THE
CONTRIBUTION DOLLAR LIMIT; UNION VENDOR STATUS UNDER INVESTIGATION
- 9 PER VENDOR AFFIDAVIT, ROBERT M. CHEVERIE & ASSOC, P.C.
PROVIDED LEGAL SERVICES FRO LOCALS #671, 677 & 1150.
PER CCER 1, CONTRIBUTOR WAS LISTED ONLY AS JOHN FUSSELL,
UPON EXAMINATION OF THE CHECK IT WAS ISSUED ON A
ROBERT M. CHEVERIE & ASSOC. CK.
- 10 GROUP DENTAL SERVICES, INC. INDIRECTLY PROVIDES ADMINISTRATIVE
SERVICES TO LOCAL UNIONS #922 AND 246 THROUGH A CONTRACT
WITH DENTAL INSURANCE COMPANY OF AMERICA, INC. THAT
PROVIDES A DENTAL PLAN FOR THE IBT. PER CCER 1, CONTRIBUTOR
WAS LISTED ONLY AS DR. RALPH FOXMAN, UPON EXAMINATION OF
THE CK. IT WAS ISSUED ON A GROUP DENTAL SERVICE INC. CK.
DEEMED TO BE A VENDOR.
- 11 PER VENDOR AFFIDAVIT, UNION FRIENDLY SYSTEMS, INC. PROVIDED
COMPUTERS TO LOCALS #174, 243 AND 792. PER CCER 1, THE CONTRIB.
WAS LISTED ONLY AS RICHARD VONELGORT. PER EXAMINATION OF THE
CHECK, THE CK. WAS ISSUED ON A UNION FRIENDLY SYSTEMS, INC. CK.
- 12 PENDING FURTHER INVESTIGATION; AFFIDAVIT RECEIVED UNCLEAR
- 13 LEGAL & ACCOUNTING EXPENSES ARE EXCLUSIVE OF RETURNED
CONTRIBUTIONS
- 14 VENDOR STATUS REMAINS UNDER INVESTIGATION