OFFICE OF THE ELECTION ADMINISTRATOR for the INTERNATIONAL BROTHERHOOD OF TEAMSTERS

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| IN RE: ALEXANDRA POPE, |) | Protest Decision 2000 EAD 25 |
| |) | Issued: September 25, 2000 |
| Protestor. |) | OEA Case No. PR060502NA |
| |) | |

This decision supplements our earlier decision in 2000 EAD 2. Alexandra Pope, a member of Local 805, filed a pre-election protest pursuant to Article XIII, Section 2(a) of the Rules for the 2000-2001 IBT International Union Delegate and Officer Election ("Rules"). Pope challenged actions listed in three categories: 1) the imposition of a temporary trusteeship over IBT Local 556 by General President James P. Hoffa and the removal by the trustee appointed by Hoffa of Maria Martinez from her position as chief shop steward at the Iowa Beef Processors facility in Pasco, Washington; 2) improper campaigning and improper use of union resources in support of the reelection of General President Hoffa at an April 2000 meeting of the Central Region Construction Trades Division; and 3) improper campaigning and use of union resources through articles critical of Tom Leedham, secretary-treasury of IBT Local 206, in various union publications in December 1999 and early 2000. These three categories of allegations were severed for purposes of investigation and resolution. The first is resolved by this decision.

Election Administrator Representative Chris Mrak investigated this protest.

Local 556 members Maria Martinez and Maria Sauceda commenced litigation against the International Brotherhood of Teamsters in the United States District Court for the Eastern District of Washington as Case No. CT-99-5094-WFN, under various provisions of the Labor-Management Reporting and Disclosure Act, 29 U.S.C. §§ 411-415 and §§ 462-466, as well as Section 301 of the Labor-Management Relations Act, 29 U.S.C. §185 (the "Washington litigation"). In the Washington litigation, Martinez and Sauceda sought (as does the instant protest) the return of Martinez to her position as chief shop steward and an end to the Local 556 trusteeship.

Protests regarding violations of the [Labor-Management Reporting and Disclosure Act, as amended](including violations of the IBT Constitution) allegedly occurring prior to the date of issuance of these *Rules* and protest regarding any conduct allegedly occurring within the first twenty-eight (28) days after issuance of these *Rules* must be filed within thirty (30) days of the date of issuance, or such protests shall be waived.

This "reach-back" protest was filed within the 30-day period following the issuance of the Rules on May 5, 2000. It alleges violations occurring before the issuance of the *Rules*. Article XIV, Section 2(a), of the *Rules* states:

These results have been achieved in the Washington litigation, which has now been completed and dismissed with prejudice pursuant to a settlement agreement executed on August 21, 2000. Thus, in that litigation, Martinez was returned to her position as chief shop steward by way of a March 3, 2000 preliminary injunction. Martinez held that position under the injunction until her election as the principal officer of Local 556, with a term beginning September 1, 2000.

Similarly, under the settlement agreement, the trusteeship has been lifted. And by its terms, the settlement agreement resolves "all claims of any nature whatsoever by [Martinez and Sauceda] against the [International Brotherhood of Teamsters, AFL-CIO on behalf of itself, its affiliates, successors, assigns, officers, agents, representatives and employees (hereafter collectively "the Union")] relating to or arising out of the subject of the lawsuit filed against the Union ..."

In 2000 EAD 2, the Election Administrator deferred decision in this matter until the conclusion of the Washington litigation. Prior Election Officers have often deferred to collectively-bargained grievance and arbitration procedures. See, *Mullins*, PR332 (October 29, 1998); *Tapia*, PR300 (October 8, 1998); *Martinez*, PR173 (August 27, 1998); *Guerrero*, P1315 (December 4, 1996); *McBride*, P1188 (November 19, 1996); *Watson*, P1179 (November 11, 1996), *aff'd*, 96 EAM 279; *Golubovic*, P440 (March 6, 1996); *Braswell*, P384 (February 27, 1996); *Jordan*, P196 (November 8, 1995); *Harrington*, P165 (September 27, 1995). Now that the Washington litigation has been concluded with a settlement agreement, and after examination of that agreement and the circumstances surrounding it, we have decided to dismiss the instant protest as moot.

Here, the court did not have before it as *Rules* violations the removal of Martinez from her shop steward position and the question of the trusteeship. The same is true in cases where the former Election Officers have deferred to collectively-bargained arbitration procedures. Even so, such deferral was exercised because "the issues presented [in the protest could] be fully resolved in other forums." *Martinez*, *supra*.

Now that the Washington litigation has been completed, we find that the issues raised by the protest have been "fully resolved" by the settlement agreement. The complaint in the Washington litigation alleged violations of the Landrum-Griffin Act by the removal from Martinez from her steward position and the imposition by the IBT of its trusteeship over Local 556. As a "reach-back" protest, the instant matter raised the same allegations. Moreover, as noted above, Martinez was not only returned to her steward position by preliminary injunction, but the IBT's trusteeship has also been removed pursuant to the settlement agreement, as part of an agreement by Martinez and the IBT to end all of their Landrum-Griffin based disputes. Finally, Martinez has now been elected as the principal officer of Local 556. In these circumstances, we believe that the conclusion of the Washington litigation fully resolves this matter.

Accordingly, the protest is DISMISSED AS MOOT.

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See note 1, *supra*.

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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:

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, c/o International Brotherhood of Teamsters, 25 Louisiana Ave., NW, Washington, DC 20001, all within the time period 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 Chris Mrak 2000EAD25 **Pope**, 2000 EAD 25 September 25, 2000

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