OFFICE OF THE ELECTION ADMINISTRATOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: HOFFA 2001 UNITY SLATE,	)	Protest Decision 2000 EAD 36
	)	Issued: October 12, 2000
Protestor.	)	OEA Case No. PR091401NA

The Hoffa 2001 Unity Slate (the "Hoffa campaign"), through its counsel J. Douglas Korney, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2000-2001 IBT International Union Delegate and Officer Election ("*Rules*"). The protest claims that the Tom Leedham Rank and File Power Slate (the "Leedham campaign") is improperly using the services of Paula Caira, a former IBT staff attorney presently employed on the in-house legal staff of the American Federation of State, County and Municipal Employees, AFL-CIO ("AFSCME"), and is thereby accepting employer and/or labor organization contributions in violation of Article XI, Section 1(b)(2) and (3) of the *Rules*. Specifically, the Hoffa campaign alleges that Caira is assisting in the collection of accreditation petitions and in otherwise promoting the Leedham campaign. The Hoffa campaign claims that petitions were mailed to Caira's home address. Counsel for the Hoffa campaign asserted in the campaign's protest that "given the history of AFSCME's involvement in the 1996 IBT election, … a full investigation must be undertaken to determine what role, if any, AFSCME is playing in the 2001 IBT election."

Election Administrator representative Lisa Taylor investigated the protest.

Findings of Fact

Caira is an Associate General Counsel with the AFSCME legal department reporting directly to the General Counsel. Caira is the second least senior person in the General Counsel's office. Caira began her employment with AFSCME on June 21, 1999. Before her work there, she worked for two months with the law offices of James and Hoffman. Between 1989 and March 1999, Caira worked in the IBT's legal department.

We have interviewed AFSCME's General Counsels concerning Caira's responsibilities at AFSCME. The General Counsel's office is physically separate from AFSCME headquarters. Six attorneys are employed there, including General Counsels John C. Dempsey and Larry P. Weinberg. They state that Caira is the equivalent to an associate at a private law firm. (The AFSCME General Counsel's office was formerly a private law firm that was subsumed within AFSCME some years ago.) Caira does not supervise any AFSCME employees. She shares a secretary with other attorneys, but that secretary is supervised by the General Counsels.

Caira has been assigned work that is typical of that assigned to new attorneys in that

office. Thus, she works on organizing matters, including inter-union disputes as to organizing rights under Article XX of the AFL-CIO Constitution. She works on agency fee matters for the International and its affiliates. She has also been engaged in disputes with the National Right-to-Work Legal Defense and Educational Foundation over union security matters. According to General Counsel Dempsey, Caira is not responsible for the formulation or effectuation of AFSCME policy. Insofar as attorneys are involved in such matters, they are dealt with by the two General Counsels, and perhaps one or two of the senior attorneys. As a junior attorney in the AFSCME Legal Department, Caira operates under the close supervision of her superiors, having no contact with AFSCME's officers concerning policy matters.

Caira has been involved in IBT elections both during and after her work at IBT headquarters. For the 1998 rerun elections, Caira worked as a volunteer for the Leedham campaign. She oversaw operations in its D.C. office. Caira's work included managing bank accounts, distributing mail, supporting the field staff by sending them T-shirts and brochures, and generally staffing the office. Caira volunteered her services after work and used much of her vacation time for this purpose.

Caira admits that she has worked as a volunteer for the Leedham campaign on the 2000-2001 elections. She states that her job responsibilities for the campaign have been significantly more limited in this election cycle because she has not had the same amount of vacation time available to her as she did for the 1998 campaign. Her work during this cycle has included banking and retrieving the mail. (The bank and post office box accounts used in the current campaign are the same as used in the 1998 campaign.) Caira has also been in charge of photocopying and faxing financial information to Oregon to be included in the campaign's CCER Reports. Caira testified that the photocopying and faxing were all done away from AFSCME and on her personal fax machine at her home. No evidence to the contrary has been offered by the Hoffa campaign.

At one point during the current cycle, Leedham campaign supporters were asked to mail their election accreditation petitions to Caira's home address. Hoffa campaign witness Richard Leebove submitted a photocopy of an e-mail message that had been forwarded to him. The message was from the Leedham campaign and directed Leedham campaign supporters sending in signed petitions after August 21, 2000 to send those petitions by courier service to "TLRFP, 17 14th Street S.E., Washington, D.C. 20003." This is Caira's home address. Caira acknowledges her receipt of such petitions at her home, and also admits that she was involved in gathering and sorting accreditation petitions and in performing other general administrative duties during the accreditation process.

Caira states that she received absolutely no compensation for her services. She also states that at no time did she do any of her campaign work at the AFSCME offices. Caira also states that she has performed no legal work for the Leedham campaign. No evidence to the contrary was offered by the Hoffa campaign.

The Leedham campaign claims that the Hoffa campaign filed this protest to intimidate Caira and to possibly gain information about the internal workings of the Leedham campaign

that it could not otherwise obtain. In making this claim, the Leedham campaign relies on the fact IBT counsel Brad Raymond sent Caira's supervisors at AFSCME a copy of his September 18 letter to the Election Administrator concerning this protest.[1] The Leedham campaign claims that because of Raymond's letter Caira was asked by her superiors at AFSCME to stop working on the Leedham campaign and has as a result stopped such work. The Leedham campaign also points to the fact that Caira is an attorney and has been involved in the election process for a number of years, and that therefore she is familiar with the *Rules* and took appropriate steps to avoid even the appearance of impropriety.

AFSCME General Counsels Dempsey and Weinberg both stated that they did not know about Caira's volunteer work for the Leedham campaign until Caira informed them that the instant protest had been filed. The General Counsels further state that upon learning of Caira's campaign work they insisted that Caira cease such activity, and that Caira agreed. Caira confirms that in response to the insistence of her superiors, her work for the Leedham campaign ended.

Analysis and Conclusion

Article XI, Section 1(b)(2) and (3) of the *Rules* provide that:

> (2) No employer may contribute, or shall be permitted to contribute, directly or indirectly, anything of value, where the purpose, object or foreseeable effect of the contribution is influence, positively or negatively, the election of a candidate. No candidate may accept or use any such contribution. These prohibitions are not limited to employers that have contracts with the Union; they extend to every employer, regardless of the nature of the business and include, but are not limited to, any political action organization that employs any staff; any nonprofit organization, such as a church or civic group that employs any staff; and any law firm or professional organization that employs any staff. These prohibitions extend beyond strictly monetary contributions made by an employer and include contributions or use of employer stationery, equipment, facilities and

[1] That letter stated the IBT's "deep concerns about any suggestion that another labor organization might be attempting to interfere with the 2000-2001 International Officer and Delegate Election." It further stated that, "[i]n this regard, during the 1996 election, high-ranking officials of AFSCME, SEIU and the AFL-CIO were directly implicated in improper schemes to contribute or solicit funds for the Carey campaign, conduct which contributed to the corruption of that election. In his decision disqualifying Ron Carey from further participation in the IBT election process, Judge Conboy pointedly observed that '[t]he Election Rules prohibit high-ranking officials of unions other than the IBT from contributing or soliciting funds for an IBT candidate because such officials are deemed 'employers' under the Rules.' *Cheatem*, Post-27-EOH et al. (November 17, 1997), pages 10-12. It is in this context that we strongly urge the Election Administrator to investigate this particular matter with all appropriate care." Finally, the IBT's letter urged that efforts to "collect, sort or otherwise process accreditation petitions on behalf of a candidate or slate in the IBT election would not constitute legal work" (a point with which the Leedham campaign concurs), and that *any* non-legal work donated by "*any* AFSCME official, or *any* other official of any non-IBT labor organization" (emphasis supplied) is an in-kind contribution forbidden by the *Rules*. The Leedham campaign denies this latter contention.

personnel.

(3) No labor organization, including but not limited to the International Union, Local Unions and all other subordinate Union bodies, whether or not an employer, may contribute, or shall be permitted to contribute, directly or indirectly, anything of value, where the purpose, object or foreseeable effect of the contribution is to influence, positively or negatively, the election of a candidate, except as permitted by subparagraphs (5) and (6) below. No candidate may accept or use any such contribution. These prohibitions extend beyond strictly monetary contributions made by a labor organization and include contributions and use of the organization's stationery, equipment, facilities and personnel.

Rules, pp. 49-50.

The terms "employer" and "labor organization" are explicitly defined in the *Rules*:

The term *"employer"* means any individual, corporation, trust, organization or other entity that employs another, paying monetary or other compensation in exchange for that individual's services, but does not include a candidate's campaign or campaign organization or a caucus or group of Union members, provided that such caucus or group is itself financed exclusively from contributions permitted under the *Rules.* The term "*employer*" includes not-for-profit employers, governmental and agricultural employers and all persons acting as agents of an employer in relation to an employee. Except where otherwise expressly limited, "*employer*" is <u>not</u> limited to an employer which has a collective bargaining agreement with the Union or which is the subject of an organizing campaign by the Union.

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The term *"labor organization"* means any organization recognized or certified as a collective bargaining representative of employees with respect to wages, hours and/or working conditions or any organization seeking to be so recognized or certified. The term includes, but is not limited to, the Union, its subordinate bodies, organizations representing governmental and agricultural employees, all parent and subordinate bodies of a labor organization, all national, state or central bodies with which any labor organization is affiliated, and all city, state, provincial, regional and central bodies of the AFL-CIO and of the CLC.

Rules, pp. 8, 9.

The *Rules* define the term "campaign contribution" as follows:

The term *"campaign contribution"* means any direct or indirect contribution of money or other thing of value where the purpose, object or foreseeable effect of that contribution is to influence, positively or negatively, the election of a candidate for Convention delegate or alternate delegate or International Officer position. Campaign contributions include but are not limited to:

(a) A contribution of money, securities, or any material thing of value;

(b) A payment to or a subscription for a fund-raising event of any kind (e.g., raffle, dinner, beer or cocktail party, etc.);

(c) A discount in the price or cost of goods or services, except to the extent that commercially established discounts are available to the customers of the supplier;

(d) An extension of credit, except where obtained in the regular course of business of a commercial lending institution and on such terms and conditions as are regularly required by such institutions;

(e) The payment for the personal services of another person, or for the use of building or office space, equipment or supplies, or advertisements through the media;

(f) An endorsement or counter-endorsement by an individual, group of individuals, or entity;

(g) A solicitation on behalf of a candidate or group of candidates; or

(h) The performance of personal services or the making available for use of space, equipment, supplies or advertisements, except that the term "*campaign contribution*" does not include the performance of services by a volunteer who is not an employer rendered on the volunteer's personal free time without compensation in any form by an employer and without accompanying contributions of supplies or services by an employer.

The term *"campaign contribution"* does not include payments or services received by the legal and accounting fund established by a candidate, slate or independent committee to provide legal or accounting services performed in assuring compliance with applicable election laws, these Rules or other requirements, or in securing, defending, or clarifying legal rights of candidates.

Rules, pp. 6-7.

Finally, Article XI, Section 1(b)(10) of the *Rules* tracks the above-quoted language of sub-paragraph (h) of the definition of "campaign contribution", and permits non-employer volunteers to donate services to a campaign under defined conditions:

> (10) Nothing herein shall prohibit the donation of services by an individual, who is not an employer, to a candidate rendered on the individual's personal free time without compensation in any form by an employer or labor organization and without accompanying contributions of supplies or of services of others who are compensated by an employer or labor organization for such services.

Rules, pp. 50-51.

The question raised in this case is whether Caira's provision of non-legal, in-kind services to the Leedham campaign is privileged under Article XI, Section 1(b)(10) and the above-quoted sub-paragraph (h) of the *Rules*' definition of "campaign contributions", or whether Caira's contribution of services is properly attributable to her employer (AFSCME) and thus barred by Article XI, Section 1(b)(2) and (3) of the *Rules*.[2] In resolving this question, we must first resolve whether the individual in question is an "employer", since the exception stated by Article XI, Section 1(b)(10) and sub-paragraph (h) of the definition of "campaign contribution" applies only if the individual donating services is not an "employer." If "employer" status is not found, we then look to whether the services donated were performed on the individual's "personal free time", whether the services were performed "without compensation in any form by an employer or labor organization", and whether the services were donated "without accompanying contributions of supplies or of services of others who are compensated by an employer or labor organization for such services." These tests govern the inquiry here.

Caira's Employer Status. As to the question of Caira's "employer" status, the IBT has properly directed our attention to Judge Conboy's decision in *Cheatem*, Post27 (November 17, 1997). There, Judge Conboy addressed the fact that high-ranking officials of other unions had contributed and solicited funds for the Carey Campaign during the 1996 election. Specifically, Judge Conboy found that the National Organizing Director of AFSCME (Paul Booth) and the Secretary-Treasurer of the AFL-CIO (Richard Trumka) were employers, and thus barred from making and/or soliciting the challenged contributions based upon the Election Officer's 1997 *Advisory on Campaign Contributions and Disclosure* ("*1997 Advisory*"), which incorporated the definition of the term "employer" stated in the LMRDA (29 U.S.C. §402(e)).[3] Under 29 U.S.C. 402(e), any person acting "as an agent of an employer in relation to an employee" is deemed a statutory employer. Citing the *1997 Advisory*, *Cheatem* holds that "[t]he Election Rules prohibit high-ranking officials of unions other than the IBT from contributing or soliciting funds for an IBT candidate because such officials are deemed 'employers' under the Rules." *Id.* at p. 10.

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[2] There is no dispute that AFSCME is both an employer and a labor organization as defined in the *Rules*.

[3] Judge Conboy also found that Gerald McEntee, AFSCME's International President, raised some of the campaign contributions found improper in *Cheatem*. *See Cheatem*, p. 11.

Based upon Judge Conboy's holding, the IBT, through a letter from its counsel Bradley Raymond, asserts that, except for "legal work" (which is not at issue here), it would "be inappropriate for *any* AFSCME official, or *any* official of any other non-IBT labor organization, to make an in-kind campaign contribution for use in the IBT 2000-2001 International Officer and Delegate Elections." (Emphasis supplied.) In stating this position, the IBT's counsel emphasizes the IBT's "deep concerns about any suggestion that another labor organization might be attempting to interfere with the 2000-2001 International Officer and Delegate Elections." Given the prior occurrences of such improper interference, this concern is certainly legitimate.

Nevertheless, we cannot find here that AFSCME attorney Caira holds the status of a statutory "employer", thus negating the application of Article XI, Section 1(b)(10) of the *Rules* to her work for the Leedham campaign. In reaching this conclusion, it is necessary to analyze the holding in *Cheatem* and the authority upon which it relies.

Judge Conboy's conclusion in *Cheatem* that certain AFSCME and AFL-CIO officials were employers cites the *1997 Advisory* as authority for this holding. *Cheatem*, p. 10. The *1997 Advisory* sets out two different ways that officials of an employer (including a labor organization) may be presumed to be employers within the meaning of the LMRDA and thus the *Rules*. And, the *1997 Advisory* also states the test under which this presumption may be rebutted as to such individuals. Each of these three points must be treated with here.

First, the *1997 Advisory* states that individuals found to be "supervisors" within the meaning of the National Labor Relations Act (29 U.S.C. §152(11)) "would normally be considered agents of an employer with respect to employees." *1997 Advisory*, p. 10. As a result, such "supervisors are prohibited from making campaign contributions." *Id.* Thus, for example, in *Cheatem*, attorney Ed James was found to be an employer because of his status as a member of a law firm. *Cheatem*, p. 11 n. 8.

Second, individuals who do not supervise employees may still be presumed to be "employers" under the LMRDA and the *Rules* if they are "[m]anagerial employees as defined by the National Labor Relations Board…" *1997 Advisory*, p. 10. The *1997 Advisory* discusses the categorization of such persons as employers in detail:

> … employees (regardless of whether they are supervisors under the NLRA) who have responsibility from their employer to formulate or effectuate management policies by expressing and making operative the decisions of their employers may not make campaign contributions. See *General Dynamics Corp.*, 213 NLRB 851 (1974); *NLRB v. Bell Aerospace Co.*, 416 U.S. 267 (1974). However, an employee who has professional skills will not be considered a managerial employee merely because of the exercise of the discretion inherent in his/her profession in the performance of his/her job. For example, an associate of a law firm (but not a partner), a registered nurse, a union organizer, and similar professionals whose effectuation of policy is limited to discretionary application of their professional skills will not be considered managerial employees.

Id.[4]

Finally, the *1997 Advisory* provides that "the presumption that supervisors and managers are employers is rebuttable." *Id.* The Advisory thus states that:

> The Election Officer will presume that any person who meets the definition of supervisor or manager is a representative of an employer and thus prohibited from making a campaign contribution. The candidate or his/her campaign may rebut this presumption by proving at a minimum that the campaign contribution was (1) not made at the behest of the employer; (2) was not made in furtherance of the employer's electoral preference; and (3) would not reasonably be treated by IBT members as made in furtherance of the employer's electoral policy or candidate preference. *See, e.g., NLRB v. National Apartment Leasing Co.*, 726 F.2d 967 (3d Cir. 1984).

Id. at pp. 10-11. In the case cited by the *1997 Advisory*, the Third Circuit joined a number of sister circuits in holding that the NLRB may not irrebutably presume that supervisors are agents of their employer, and thus irrebutably presume that their acts are those of their employer for purposes of determining whether a labor law violation has occurred. *See NLRB v. National Apartment Leasing Co.*, *supra*, 726 F.2d at 971, citing *Connecticut Distributors, Inc. v. NLRB*, 681 F.2d 127, 129 (2d Cir. 1982); *NLRB v. Big Three Industrial Gas & Equipment Co.*, 579 F.2d 304 (5th Cir. 1978), *cert. denied*, 440 U.S. 960 (1979); *Oil, Chemical & Atomic Workers, International Union*, 547 F.2d 575 (D.C.Cir. 1976). *cert. denied*, 431 U.S. 966 (1977), *NLRB v. Garland Corp.*, 396 F.2d 707, 709 (1st Cir. 1968). *But see Jay Foods. v. NLRB*, 573 F.2d 438, 444-45 (7th Cir. 1978), *cert. denied*, 439 U.S. 859. Having stated each of these principles, we now apply them to the facts of this case.

First, we cannot conclude that Caira is either a supervisor or a managerial employee at AFSCME, and thus presumptively a statutory "employer." Thus, Caira testified that she is the functional equivalent of an associate at a law firm, a status which the *1997 Advisory* teaches is not that of a managerial employee, since such a person's "effectuation of policy is limited to discretionary application of their professional skills." *1997 Advisory*, p. 10. Moreover, Caira states that she does not supervise employees at AFSCME.

Our interviews with Caira's superiors in the Legal Department at AFSCME confirm both of these conclusions. Thus, as discussed at pages 1-3 above, AFSCME's two General Counsels view Caira as the functional equivalent of a law firm associate. Since coming to AFSCME in

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[4] Judge Conboy's decision in *Cheatem*, while citing to the page of the *1997 Advisory* that discusses the status of both supervisors and managerial employees as presumptive "employers", does not state whether he concluded that Booth, Trumka and McEntee were "employers" because they held one status, the other, or both. *Cheatem*, p. 10. It is readily apparent, however, that individuals holding the respective positions of AFSCME International President, AFSCME National Organizing Director and AFL-CIO Secretary-Treasurer are both managerial employees and supervisors. In any case, the status of these individuals as "employers" does not appear to have been challenged in *Cheatem*.

June 1999, she has handled relatively routine tasks under the close supervision of her superiors. She is not involve in AFSCME policy matters, with such work being primarily the function of the General Counsels. She does not supervise any AFSCME employees.

Second, even if the facts here did establish that Caira were a "supervisor" or "managerial employee", we would be required to conclude that Caira has rebutted the presumption that her actions for the Leedham campaign are those of an "employer" and attributable to AFSCME. In reaching this conclusion, we apply the three-part test stated at pages 10 and 11 of the *1997 Advisory*.

Thus, we have found no evidence that Caira's actions were at the behest of AFSCME, and none was offered by either the Hoffa campaign or the IBT. To the contrary, our investigation revealed that Caira's supervisors at AFSCME did not learn of her continuing volunteer work for the Leedham campaign until after this protest was filed. They responded by insisting that Caira cease her volunteer work.

Nor has any evidence been offered or uncovered which indicates that Caira's volunteer work was made in furtherance of AFSCME's electoral preference. Instead, our investigation established that Caira performed her volunteer services for the Leedham campaign because of her own support of Mr. Leedham and his allies. There is no evidence either that Caira was directed to provide her volunteer services to the Leedham campaign by her AFSCME superiors, or that she sought or received their support in providing such services.

We also conclude that Caira's provision of services to the Leedham campaign could not reasonably be treated by IBT members as made in furtherance of AFSCME's electoral policy or candidate preference. In making this finding, we have considered AFSCME's prior involvement (through Booth and McEntee) in the 1996 IBT election. That prior involvement must be acknowledged as giving weight to a claim that any volunteer work by an individual associated with AFSCME would be seen by IBT members as in furtherance of an AFSCME candidate preference with respect to the IBT's 2001 elections. Once having embroiled itself in IBT politics through actions of its highest officials, it is inevitable that any future involvement by even low-level AFSCME employees will raise questions in the minds of IBT members about AFSCME's current position.

Weighing against this, however, is the fact that the record here establishes that Caira was careful to separate her volunteer services for the Leedham campaign from her work at AFSCME. She never performed any Leedham campaign work on AFSCME property, or through use of AFSCME resources. All her work for the Leedham campaign was performed away from work and on her own time. We cannot conclude that an IBT member, when made aware of these facts, would reasonably see Caira's work as in furtherance of an AFSCME electoral preference in support of the Leedham campaign. And, the fact that Caira's AFSCME superiors insisted that she cease such volunteer services once they learned of them only bolsters this conclusion. Taken as a whole, these facts make it difficult to conclude that Caira's volunteer work for the Leedham campaign would be seen by IBT members as in furtherance of an AFSCME electoral

preference.[5]

Thus, even if we were to conclude that Caira was a "supervisor" or "managerial employee" at AFSCME (which we do not), we would hold that the presumptive status of "employer" which would result from such a finding has been rebutted under the three part test stated at pages 10 and 11 of the *1997 Advisory*.

For each of these reasons, we conclude that Caira is not an "employer" for purposes of the *Rules.*

Caira's Volunteer Services Meet the Other Requirements of Article XI, Section 1(b)(10). Our conclusion that Caira is not an "employer" does not end the required inquiry here. For Article XI, Section 1(b)(10) of the *Rules* sets other requirements that must be met before volunteer services by a non-member can be found legitimate. Thus, such services must be "rendered on the individual's personal free time without compensation in any form by an employer or labor organization and without accompanying contributions of supplies or of services of others who are compensated by an employer or labor organization for such services." We find that these criteria have been established by the Leedham campaign here.[6]

First, our investigation established that Caira performed work for the Leedham campaign only on her "personal free time." Thus, Caira did no work for the Leedham campaign during her work hours at AFSCME. Instead, she did Leedham campaign work only after her AFSCME work hours, and she conducted all such campaign work away from AFSCME's offices. Moreover, it is clear that Caira was in fact a "volunteer." She was not compensated for her campaign services by either AFSCME or the Leedham Campaign.

Second, Caira's campaign work was also performed without accompanying contributions of supplies or of services by others who were compensated by any employer or labor organization for such supplies or services. No employer or labor organization, including AFSCME, contributed any supplies or services to support Caira's volunteer campaign work. Nor did any other person compensated by AFSCME or any other employer or labor organization provide employer or labor organization funded support for Caira's campaign work.

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[5] Even if we were to conclude, on the basis the past involvement of AFSCME officials in IBT politics, that IBT members could reasonably view Caira's volunteer work for the Leedham campaign as in furtherance of an AFSCME candidate preference, this would not mean that Caira would be an "employer", and thus outside the coverage of Article XI, Section 1(b)(10) of the *Rules*. Instead, this factor, along with the other portions of the three part test set out on pages 10 and 11 of the *1997 Advisory* and discussed above in text, is to be used merely to determine whether a "supervisor" or "managerial employee" has rebutted their presumptive status as an "employer", as indicated in the *1997 Advisory* itself. As we have held above in text, however, Caira is neither a "supervisor" nor a "managerial employee", and is therefore not a statutory "employer" precluded from providing volunteer personal services to the Leedham campaign.

[6] Hoffa campaign witness Leebove asserted in his interview that non-members who are not employers are not permitted to provide volunteer services to a campaign, even if the requirements of Article XI, Section 1(b)(10) are met. We reject this contention as contrary to the explicit terms of Article XI, Section 1(b)(10).

Third, no AFSCME personnel directed Caira's work for the Leedham campaign. Caira volunteered her time to the Leedham campaign independent of her employer and had done so before her employment with AFSCME. Indeed, her AFSCME supervisors insisted that she stop her volunteer campaign work when they learned of this protest.

In these circumstances, Caira's campaign work was permitted by Article XI, Section 1(b)(10) of the *Rules*, which allows campaigns to receive donations of services from any "individual, who is not an employer, [when such services are] rendered on the individual's personal free time without compensation in any form by an employer or labor organization and without accompanying contributions of supplies or of services of others who are compensated by an employer or labor organization for such services."

Accordingly, the protest is DENIED.

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
Lisa Taylor
2000 EAD 36

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