

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

|                                  |   |                              |
|----------------------------------|---|------------------------------|
| <b>IN RE: HOFFA UNITY SLATE,</b> | ) | Protest Decision 2000 EAD 67 |
|                                  | ) | Issued: December 19, 2000    |
|                                  | ) | OEA Case No. PR111501NA      |
| Protestor.                       | ) |                              |
| _____                            | ) |                              |

The Hoffa Unity Slate (the “Hoffa slate”) 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*”) against the Tom Leedham Rank and File Power Slate (the “Leedham slate”). The protest alleges that the Leedham slate has violated Article VII, Section 1(b)(1) of the *Rules*, by accepting a contribution from “Leedham Campaign 1998.”

Election Administrator representative Michael Nicholson investigated the protest.

**Findings of Fact**

Leedham slate CCER #1 (legal and accounting fund) shows a contribution of \$4,069.84 from “Leedham Campaign 1998” received on September 30, 1999. In addition, Leedham slate CCER #1 shows a contribution to the Leedham campaign of \$2,003.38 from “Leedham Campaign 1998” received on October 14, 2000.

Other campaigns have also accepted surplus finds from prior campaigns as contributions. These include the O’Donnell campaign and the Keegel legal and accounting fund. The Election Administrator issued an advisory on September 27, 2000 that provided at Section III(e), page 10 that, in certain circumstances, candidates, slates or independent committees that had retained surplus funds from a previous election could use those funds in this election.

The Hoffa slate alleges that the Leedham slate violated Article XI, Section 1(b)(1) of the *Rules* by accepting surplus funds from the Leedham 1998 campaign as contributions for this election cycle.

**Analysis**

On December 6, 2000, I issued a Second Addendum to Advisory on Campaign Contributions and Disclosure (“Second Addendum”). This addendum was a supplement to the September 27, 2000 advisory on campaign contributions and the October 19, 2000 addendum thereto. The September 27, 2000 advisory at Section III(e), page 10, stated that in certain circumstances, slates or independent committees that had retained surplus

funds from a previous election could use those funds in this election. That statement was in error, as recognized in the Second Addendum.

The September 27, 2000 advisory stated that candidates, slates or independent committees that retained surplus funds from a previous election could use such funds in the 2000-2001 International Union Delegate and Officer Election if, and only if, the contribution of those funds would be permitted under the *Rules*. I failed to recognize that no such contributions whether from a general campaign fund or a legal/accounting fund are permitted under the *Rules* because they provide that only contributions which are "...made...under these *Rules* may be expended or used by candidates, slates or independent committees for the 2000-2001 International Union Delegate and Officer Election." Article XI, Section 1(b)(1). This reading is reinforced by the negotiating history that led to the creation of the *Rules*. The IBT specifically proposed a provision that would have allowed the use of surplus funds. The Government rejected it. It was not included in the *Rules* as adopted.

Recognizing this, the Second Addendum advised all campaigns that any contributions of surplus funds should be promptly returned. Each campaign that received such surplus funds was further directed to file appropriate affidavits with the Election Administrator. *Rules*, Article XI, Section 1(b)(13). Candidates, slates and independent committees were further reminded that, at the conclusion of the 1998 rerun election, Election Officer Michael Cherkasky advised that surplus funds could not be used by any individual for personal use, but could be donated to charity.

In light of the foregoing, and of the Leedham slate's reliance upon the September 27, 2000 advisory, this protest is deemed RESOLVED upon the basis set forth in the Second Addendum, which must be complied with by all campaigns.

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 in any such appeal upon evidence that was not presented to the Office of the Election Administrator. 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, 727 15<sup>th</sup>

*Hoffa Unity Slate*, 2000 EAD 67  
December 19, 2000

Street, NW, 10<sup>th</sup> Floor, Washington, DC 20005, 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  
*2000 EAD 67*

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