

OFFICE OF THE ELECTION ADMINISTRATOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: ROBERT RASCH,)	Protest Decision 2001 EAD 216
)	Issued: March 6, 2001
)	OEA Case No. PR020916SO
Protestor.)	
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Robert Rasch, a Local 19 member and delegate candidate on the Rhoades 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”). He alleges that the opposition Local 19 Unity slate (“Unity slate”) violated the *Rules* by using union resources to mail campaign literature and failing to record the income and expenses of the slate’s campaign.

Election Administrator representative Dolores Hall investigated the protest.

Findings of Fact and Analysis

1. *The campaign literature claim.* Ballots were tallied in Local 19’s delegate election on February 27, 2001. The Rhoades slate won the three delegate and three alternate delegate seats; the Unity slate candidates lost. The margin of victory between the third and fourth place finishers in the delegate race was 268 votes; in the alternate delegate contest, 233.¹

Rasch claims that a campaign flyer supporting the Unity slate was mailed using the same postal permit used to mail Local 19’s membership newsletter. That claim is without merit. Reilly-Echols Printing Co. (“REPC”), the only union printer in the Dallas, Texas area, holds the postal permit, not Local 19. Moreover, REPC’s president corroborated the Local 19 Unity slate’s claim that the slate, rather than the local union paid for the production and mailing of the Unity slate’s campaign flyer. Accordingly, we DENY the protest allegations concerning the mailing of Unity slate campaign materials.

2. *The campaign contribution and expense claim.* The Unity slate’s members deposited their campaign contributions in an account named the “B.A. Special Account” maintained at the Texas & Pacific Employees Federal Credit Union in Dallas. The initial contribution to the account was \$5,374.00 by business agent Michael Ellison, a Unity slate delegate candidate, who contributed more later. The other contributors to the account were also Local 19 business agents.

Subsequently, Ellison realized that the contributions made by him and by non-candidate and Local 19 member Carl Branch exceeded the contribution limits established by Article XI of the *Rules*. Specifically, Ellison and Branch had contributed \$8,400 and \$3,000 respectively to

¹ 1,279 ballots were cast, 14 were declared void, 145 were challenged, and 1,120 were counted. The challenged ballots were insufficient to affect the results of the election were not resolved.

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the account, which exceeded the \$2,000 and \$1,000 contribution limits for delegate candidates and non-candidates established in Article XI, Section 1(b)(12)(A) and (C) of the *Rules*.

Accordingly, Ellison and Branch received refunds from the campaign's account on February 7, 2001, before the filing of the instant protest, in the amounts of \$6,205.92 and \$2,000 respectively. An additional check in the amount of \$194.08 was issued on February 22, 2001 to Ellison. With these refunds, \$2,000 remained in the account from Ellison and \$1,000 from Branch, amounts that are consistent with the contribution limits established by Article XI, Section 1(b)(12)(A) and (C). Further, records provided by Ellison indicate that the Unity slate made \$2,547.81 in delegate election campaign expenditures from the B.A. Special Account. The Unity slate properly documented those expenditures, which were made beginning on February 6, 2001.

Since the Unity slate voluntarily refunded the excess contributions made to its account, and since it has shown that it kept appropriately detailed records of its contributions and expenditures, we deem this aspect of the protest RESOLVED.

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, 727 15th Street NW, Tenth Floor, Washington, DC 20005 (facsimile: 202-454-1501), 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
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