

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

IN RE: TODD THOMPSON,)	Protest Decision 2001 EAD 430
)	Issued: August 24, 2001
Protestor.)	OEA Case No. PR071811MW
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)	

Todd Thompson, campaign manager for the Hoffa 2001 Unity slate (the "Hoffa campaign"), filed a pre-election protest on behalf of the Hoffa campaign pursuant to Article XIII, Section 2(b) of the Rules for the 2000-2001 IBT International Union Delegate and Officer Election ("*Rules*"). The Hoffa campaign protests an alleged use of union resources by Local 89 member and UPS steward David Thornsberry in printing and disseminating a document titled "Stewards Report." Thornsberry is also a candidate for International vice president on the Tom Leedham Rank and File Power Slate.

Election Administrator representative Jason Weidenfeld investigated the protest.

Findings of Fact and Analysis

For several years, stewards at UPS have intermittently produced a document titled "Stewards Report." The reports, of which Local 89 is aware, are prepared for and provided to Local 89 members who work full-time at UPS. Local 89 does not fund the reports in any manner.

Thornsberry, a steward employed by UPS, says that he prepared, printed, copied and distributed the contested report out of his own funds. There is no contrary evidence. He said that he is a steward and did not see how use of his title, by itself, would be the basis for a *Rules* violation.

The Stewards Reports that we have reviewed uniformly concern union business. Thus, collectively they cover such matters as grievance meetings, UPS management actions, union social events, union meetings, and working conditions. A prior issue discussed the results of Local 89's officer election in a somewhat partisan matter, but overall, a reader of each Stewards Report would conclude that the matters therein concern and convey the position on union affairs of the steward author acting as such.

The issue that is the subject of the protest has five sections, one each dealing with overtime, pay raises, UPS contract negotiations, safety at work and the International officer election. The latter section says that the convention has occurred, that General President candidates Hoffa and Leedham were nominated and that it is important to vote. The section then says: "I was nominated ... as Vice President of the Central Region on the Tom Leedham Rank & File Power slate, and I accepted the nomination. I look forward to representing you in

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Washington, D.C. when we win. So I am counting on everyone to vote.” Moreover, earlier in the issue, Thornsberry criticizes General President Hoffa on the subject of strike benefits.

The *Rules* prohibit the use of “Union funds, facilities, equipment, stationery, personnel, etc. in campaigning unless the Union is reimbursed at fair market value . . . and unless all candidates are provided equal access . . .” Article VII, Section 11(c). Since no such resources were used here, we DENY this aspect of the protest.

However, the *Rules* also provide that:

All Union officers and employers, if members, retain the right to participate in campaign activities, including the right to run for office, opening to support or oppose any candidate, to aid or campaign for any candidate, and to make personal contributions

...

An endorsement of a candidate may be made by a Union officer or employer, but solely in his/her individual capacity. The Union or a Local Union as such or the General Executive Board or an Executive Board of a Local Union as such may not endorse or otherwise advance a candidacy, even if all members agree on the endorsement or candidacy.

Rules, Article VII, Section 11(b).

The no-endorsement rule means what it says. Neither local unions nor local union representatives acting as such can endorse a candidate or slate of candidates. *Pope*, 2000 EAD 3 (August 1, 2000); *Custer*, P1098 (November 18, 1991) (following notice violative of rules as it indicates endorsement by the local’s executive board as an entity: “Teamsters Local 673’s Executive Board Unanimously Endorse the Shea-Liguorotis Action Team”); *Gebow*, P963 (October 14, 1991), *aff’d*, 91 EAM 212 (October 28, 1991) (executive board improperly voted to support a particular slate); *Compare Fischer*, P90 (September 7, 1995), *aff’d*, 90 EAM 15 (September 29, 1995) (resolution passed at conference supportive of President Carey not an endorsement as no explicit reference of support for him as a candidate). An individual member who is a local union officer or representative can make an endorsement and in doing so can refer to his/her office, but only if in context the reference is for identification purposes. *Jones*, 2001 EAD 222 (March 8, 2001).

Here, Thornsberry’s Stewards Report contains a self-congratulatory reference to his nomination, and objectively can be read as seeking support for his candidacy as a member of the Leedham slate. It crosses the line between merely reporting legitimate news about events at the 2001 IBT convention and seeking support for the author as a nominated candidate. And the article creates the impression of a self-endorsement by Thornsberry in his official position as a union steward, given the publication in which it occurs and the fact that the remaining portions of the publication contain a report on union business. In this context, the contested portions of the Stewards Report violate Article VII, Section 11(b) of the *Rules*. See *Leedham Slate*, 2001

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EAD 394 (June 23, 2001), *aff'd*, 01 EAM 84 (July 13, 2001). We accordingly GRANT this aspect of the protest.

Remedy

When the *Rules* have been violated, the Election Administrator “may take whatever remedial action is appropriate.” Article XIII, Section 4. In fashioning the appropriate remedy, the Election Administrator considers the nature and seriousness of the violation, as well as its potential for interference with the election process.

We order Thornsberry to publish a paragraph submitted to him by the Hoffa slate in the next issue of the Stewards Report. The paragraph shall be of substantially equivalent length to the portion of the Stewards Report found to have violated the *Rules* here. The Election Administrator will resolve any dispute concerning compliance with this order.

An order of the Election Administrator, unless otherwise stayed, takes immediate effect against a party found to be in violation of the *Rules*. *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:

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 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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DISTRIBUTION LIST VIA UPS NEXT DAY AIR:

Patrick Szymanski
IBT General Counsel
25 Louisiana Ave. NW
Washington, DC 20001

Bradley T. Raymond
Finkel, Whitefield, Selik,
Raymond, Ferrara & Feldman
32300 Northwestern Highway
Suite 200
Farmington Hills, MI 48334

J. Douglas Korney
Korney & Heldt
30700 Telegraph Road
Suite 1551
Bingham Farms, MI 48025

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

Betty Grdina
Yablonski, Both & Edelman
Suite 800
1140 Connecticut Ave. NW
Washington, D.C. 20036

Tom Leedham c/o Stefan Ostrach
110 Mayfair
Eugene, OR 97404

Todd Thompson
209 Pennsylvania Ave., SE
Washington, DC 20003

IBT Local 89
3813 Taylor Blvd.
Louisville, KY 40215

David Thornsberry
10403 Truman Way
Louisville, KY 40215

Dennis M. Sarsany
1829 Eddy St.
Chicago, IL 60657

Irwin H. Cutler, Jr.
Adrienne A. Berry
Segal Stewart Cutler Lindsay James
and Berry
1400B Waterfront Plaza
325 W. Main St.
Louisville, KY 40202

Michael J. Goldberg
73 Harrowgate Dr.
Cherry Hill, NJ 08003