

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

IN RE: TODD THOMPSON,)	Protest Decision 2001 EAD 436
)	Issued: August 31, 2001
)	OEA Case No. PR073011NA
Protestor.)	
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Todd Thompson, campaign manager for the Hoffa Unity 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 several campaign finance related violations of the Rules for the 2000-2001 IBT International Union Delegate and Officer Election ("*Rules*") by Teamsters for a Democratic Union ("TDU") and Teamsters Rank and File Education and Legal Defense Fund ("TRF").

Election Administrator representative Lisa Sonia Taylor investigated the protest.

Findings of Fact and Analysis

We address the protestor's allegations seriatim.

First, the protestor challenges TDU's failure to list the total number of contributors in its CCER 04. That report lists \$36,439.00 in verified monetary contributions. It does not list the total number of contributors. In our September 15, 2000 letter regarding the disclosure requirements for Independent Committees, it was determined that the total number of contributors should be stated in the redacted campaign finance reports, although the identity of contributors should be removed. *See Taylor*, 2001 EAD 75 (December 29, 2000), *aff'd*, 01 EAM 16 (February 8, 2001) and *Hoffa Unity Slate*, 2001 EAD 380 (June 4, 2001).

TDU acknowledges that it failed to include the total number of contributors in its CCER 4, and claims this was an oversight. Nevertheless, this failure violates TDU's reporting requirements under Article XI, and we accordingly GRANT this protest allegation and order TDU to amend its redacted CCER 4, as it has indicated it will do, to provide the missing information. This amendment stating the total number of contributors must be filed no later than September 7, 2001.

Second, the protestor alleges that, TDU and TRF have failed to report any fundraisers held by them, despite having reported raising \$182,000 and \$59,000 respectively through the end of reporting period 4. No evidence has been offered by the protestor's witness, Richard Lebove, of the occurrence of any such fundraisers, and TDU and TRF both deny that any have been held. Without any evidence of a reporting violation in this regard, we DENY this protest allegation.

Third, the protestor notes that TDU has reported a grant of \$500 to the “NJ/NY TDU Chapter” of TDU but that no CCER has filed by such an independent committee. TDU’s amended CCER 03 filed on June 11, 2001 shows that TDU made this grant of election funds on October 26, 2000. There was also a previous payment made to the NY/NJ chapter on August 5, 2000 of \$371.94 for postage reimbursement, making the total to date \$871.94. TDU says that the \$500 grant was to reimburse that chapter for portions of its newsletter *Adelente*, which contained campaign related material, and which TDU decided to fully subsidize instead of paying only for the campaign-related portion. The postage reimbursement was for the shipping cost of the newsletter. Further, the evidence indicates that the expenditures of the NY/NJ chapter have not exceeded the \$1,000 reporting threshold for such entities.

We DENY this protest allegation for the reasons stated in *Hoffa Unity Slate*, 2001 EAD 300 (April 9, 2001), where we found that Article XI, Section 2(a)(3) of the *Rules* “requires independent committees to file CCER reports with the Election Administrator when their reportable expenditures or contribution receipts exceed \$1,000.”

Fourth, the protestor alleges that neither TDU nor TRF have filed attestations for legal and accounting workers as required by the Election Administrator’s May 31, 2001 Third Addendum to Advisory on Campaign Contributions and Disclosures. *See Taylor*, 01 EAM 59 (May 14, 2001). In fact, such attestations were filed by TDU and TRF, but included only with their unredacted CCER. TDU and TRF have since agreed, without waiving their position on redaction of future attestations or of other CCER-related items, to disclosure of all CCER 4 attestations, and they will be provided to all candidates who have requested them. Accordingly, we deem the protest allegation concerning the alleged non-filing of the CCER 4 attestations RESOLVED.

Fifth, the protestor notes that TDU CCER 4 lists a payment of \$15,652.14 from TDU to TRF allocated to salary, benefits and overhead for the four month CCER 4 reporting period, and claims that this is “so low as to lead one to conclude that TRF or some other entity is subsidizing the campaign activity of TDU.” The protestor explains that at the IBT Convention TDU had at least 10 employees “working full time on behalf of the Leedham slate.” By the protestor’s calculations, TDU paid TRF \$978 per week for salaries, benefits and overhead, thus bringing the salary and benefits paid by TDU for ten employees to less than \$100 per week. Further, notes the protestor, “[t]his figure would not include “overhead” of phones, copiers, faxes and computers that TDU must be operating around the clock on behalf of the Leedham Slate.”

The protest further states that the Leedham slate is paying one fulltime employee over \$800/week for salary and benefits while the Hoffa slate is paying several fulltime employees and consultants over \$1,500/week for their services. It is therefore not credible that experienced fulltime campaign workers like Ken Paff, David Levin, Robert Machado, Barry Eidlin, Marilyn Penttinen, David Pratt and Simone Sagovac could be paid less than \$100/week as Leedham operatives. Nor is it believable that these campaign

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operatives could be doing limited campaign work when TDU was directly involved in running dozens of delegate races across the country during this reporting period.”

TDU notes that the IBT convention did not fall within the CCER 4 reporting period, and that it has provided back-up documentation for its allocation of expenses to the Election Administrator pursuant to the Huttleston reporting system. That documentation supported TDU’s allocation, as determined pursuant to a recently completed audit of TDU and TRF by the Election Administrator’s forensic accountant. By contrast, the Hoffa slate has provided no evidence to show misreporting by TDU or TRF. We have repeatedly approved the Huttleston method of reporting where the TDU segregates between election and non-election activities and allocates expenses accordingly and have found that the “TDU and TRF have taken appropriate steps to assure that TDU’s campaign activity is not subsidized by TRF or by sources of funds from prohibited campaign sources.” *Taylor*, 2000 EAD 40 (October 24, 2000). Through our most recent audit, conducted on August 27-29, 2001, we have determined that this remains the case. Accordingly, we DENY this protest allegation.

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

James L. Hicks, Jr.
Suite 1100
2777 N. Stemmons Freeway
Dallas, Texas 75207

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

Bruce Dubinsky
Klausner Dubinsky & Associates
4520 East West Highway
Suite 640
Bethesda, Maryland 20814

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
Hoffa Unity Slate 2001
209 Pennsylvania Ave. SE
Washington, DC 20003

Matt Ginsburg
30 Third Avenue
Brooklyn, NY 11217