

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

<b>IN RE: RICK FYVIE,</b>	)	Protest Decision 2001 EAD 489
	)	Issued: October 3, 2001
<b>Protestor.</b>	)	OEA Case No. PR091712CA
<hr/>		)

Rick Fyvie, a member and vice-president of Local Union 938, 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 Larry Barnett, a supporter of the Tom Leedham Rank & File Power slate (the "Leedham slate"). He alleges campaign activity by Barnett in violation of Article VII, Section 11 of the *Rules*.

Election Administrator representative Gwen Randall investigated the protest.

**Findings of Facts and Analysis**

Barnett attended a Local 938 meeting in Thunder Bay, Ontario on September 15, 2001. Barnett acknowledges that he applied Leedham stickers on the outside of the Local 938 office building. Shortly thereafter, the stickers were removed.

Barnett says that in previous election campaigns at both the Local and International level, such stickers were used by all parties, and applied freely at union and employer premises. Such a past practice, even if it occurred, is not protected by Article VII, Section 11(d) of the *Rules*, which protects certain pre-existing right to campaign on employer and union premises, among them the right to "solicit support, distribute leaflets or literature, conduct campaign rallies, hold fund-raising events or engage in similar activities..." Instead, the placement of campaign stickers on union property may suggest union endorsement of a candidate. Such placement violates Article VII, Section 11(c) and Article XI, Section 1(b)(6) of the *Rules*.

Based upon the foregoing, the protest is GRANTED.

Barnett and the Leedham slate are ordered to cease and desist from any further such violations of the *Rules*. In addition, by October 9, 2001, the Leedham slate shall mail at its own expense a copy of the attached Notice to all Local 938 members who attended the September 15 meeting.

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:

*Fyvie*, 2001 EAD 489  
October 3, 2001

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> 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  
*2001 EAD 489*

## **NOTICE TO MEMBERS OF IBT LOCAL 938**

The Rules for the 2000-2001 IBT International Union Delegate and Officer Election (“*Rules*”) prohibit the affixing of campaign stickers on union offices.

The Election Administrator for the International Brotherhood of Teamsters has found that on September 15, 2001 Larry Barnett, a supporter of the Tom Leedham Rank and File Power slate, affixed such stickers to the building housing Local 938’s Thunder Bay, Ontario office. The Local’s records indicate that you attended a meeting at the Thunder Bay office that day.

The Election Administrator will not permit such violations of the *Rules*, and has ordered Barnett and the Leedham slate to cease and desist from such violations and to mail this notice to all that attended the September 15 Thunder Bay meeting.

Any protest you have regarding your rights under the *Rules* or any conduct by any person or entity which violates the *Rules* should be filed with William A. Wertheimer, Jr., Office of the Election Administrator, 727 Fifteenth Street, NW, Washington DC 20005, telephone 800-565-VOTE, fax (202) 454-1501.

*William A. Wertheimer, Jr.*

William A. Wertheimer, Jr.  
Election Administrator

***This is an official notice ordered by the Election Administrator for the  
International Brotherhood of Teamsters.***

*Fyvie*, 2001 EAD 489  
October 3, 2001

**DISTRIBUTION LIST VIA UPS NEXT DAY AIR:**

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