

OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: HOFFA 2006,)	Protest Decision 2006 ESD 172
)	Issued: April 6, 2006
Protestor.)	OES Case Nos. P-06-185-022706-HQ
_____)	

Hoffa 2006 filed a pre-election protest against the United Teamsters Against Hoffa (“UTAH”), the Tom Leedham slate, and Teamsters for a Democratic Union (“TDU”) pursuant to Article XIII, Section 2(b) of the Rules for the 2005-2006 IBT International Union Delegate and Officer Election (“Rules”). The protest alleged that the Leedham slate and/or TDU established UTAH as an independent committee and then accepted contributions from the independent committee in violation of the *Rules*. The protest further asserts that the UTAH has failed to file any CCERs, as required by the *Rules*.

Election Supervisor representative Steven Newmark investigated this protest.

Findings of Fact

Investigation showed that a website at www.utah2006.com, displaying the UTAH heading, was established and operated by Local Union 299 members J.D. Jackson and Joel Dunn. When the site was established, Jackson and Dunn were candidates for delegate and alternate delegate in that local union’s delegate election.

UTAH does not maintain a bank account, has not accepted any contributions from the Leedham slate or TDU, and has incurred expenses of less than \$100 to secure the domain name and pay a monthly web-hosting charge. Jackson and Dunn split the website costs and paid them out of their personal finds. The domain fee and most of the monthly web-hosting fees were incurred while Jackson and Dunn were candidates in the local union delegate and alternate delegate election.

The home page of the UTAH website contains the following text:

We formed this organization to make our union respond to the Membership, That's you and me.

While we are asked to understand the economic problems of our union, reduced wages, health care and pensions, we still have the multiple salaries and multiple pension at the international and local levels of our union.

There are delegate elections going on right now.

As members we should know who the delegates support for General President before voting for a particular Delegate. We need to ask the Delegates if they will have an open mind on the issues that are important to us, the Membership.

We need to ask the Delegates, is there anyone on your slate that is employed by international and or receiving money, if so can they separate the issues or will they be just a rubber stamp to Hoffa’s campaign.

Remember Hoffa is counting on the Membership NOT voting!

The UTAH website displays links to the following websites: Local 299 Teamsters for Change (www.jdjacksonslate.com), Local 614 Delegates Slate (www.utah2006.com/614.html), Tom Leedham 2006 (www.leedham2006.org), and a website “under construction” with a url of dumphoffa.org. The website also includes the message: “This Site Doesn’t endorse any one slate!!!” The site does not indicate who owns the site’s domain name or who is operating the site.

Local Union 299 completed its tally of ballots on March 10. Both Jackson and Dunn lost their elections. Monthly web-hosting charges have been incurred for the UTAH site since March 10, and Jackson and Dunn have continued to split those costs. The web-related costs since March 10 have amounted to less than \$25.

Analysis

The *Rules* define an independent committee as “any person or entity not controlled by a candidate or slate who/which has accepted any campaign contribution, as defined by these *Rules*, or who/which has made any expenditure, where the purpose, object or foreseeable effect of the contribution or expenditure is to influence the election of International Officer candidate(s).” Definition 22.

During the period that Jackson and Dunn were candidates in the Local Union 299 delegate election, UTAH was not an independent committee under the *Rules* because it was “controlled by a candidate.”

The tally of ballots in that local union’s election was completed on March 10. Because the UTAH website has been continued for several weeks following completion of the Local Union 299 delegate and alternate delegate election on March 10, UTAH meets the definition of an independent committee under the *Rules*, commencing with that election’s tally date. We reach this conclusion because the organizers of the entity, Jackson and Dunn, are no longer candidates in a delegate election, and neither has declared himself a candidate for International office. UTAH is therefore no longer “controlled by a candidate or slate ...” Further, the UTAH website and the UTAH acronym clearly have the “purpose, object or foreseeable effect to influence the election of International Officer candidates,” namely to defeat the candidacy of James Hoffa for re-election as IBT General President.

Article XI, Section 1(b)(9)(A) of the *Rules* states that “nothing in these *Rules* shall prohibit any candidate from accepting contributions made by any ... independent committee ..., or prohibit such ... independent committee ... from making contributions, provided that such ... independent committee ... is itself financed exclusively from contributions which are permitted and properly reported under these *Rules*.”

The *Rules* require that Campaign Contribution and Expenditure Reports (CCERs) be filed by “[e]very independent committee which has received or solicited contributions in excess of \$1,000, whether of money or of any other thing of value, or made expenditures in excess of \$1,000, whether of money or of any other thing of value, where the purpose, object or

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foreseeable effect of any such contribution or expenditure is to influence the election of one or more International Officer candidates, whether or not any such candidate is as yet declared, accredited or nominated.” Article XI, Section 2(a)(3), in relevant part.

We find that UTAH has not raised or expended funds in excess of \$1,000 and as such has not yet met the CCER filing threshold for an independent committee. *See Hoffa 2006*, 2005 ESD 3 (August 4, 2005). Further, the bulk of UTAH’s expenditures to date were incurred prior to the date it became an independent committee under the *Rules*. Thus, they were incurred at a time when UTAH’s principals, Jackson and Dunn, were candidates in a local union delegate and alternate delegate election. Only those contributions UTAH received or the expenditures it incurred following the date it became an independent committee, *i.e.*, the date it ceased to be controlled by a candidate, may be counted toward the \$1,000 threshold that triggers the obligation to file a CCER. Investigation shows that UTAH presently falls well short of that threshold; investigation further shows that the first expenditure that may be counted toward the threshold occurred after the March 10 tally of ballots in the Local Union 299 delegate and alternate delegate election. There is no evidence that Jackson or Dunn was ineligible to make election contributions, and the funds either expended on UTAH would therefore be allowable campaign contributions. Treating Jackson and Dunn’s pre-March 10 expenditures on UTAH as contributions towards an entity they controlled as candidates in the local union delegate election, the *Rules* do not require them to file a CCER for that activity. *See Rules*, Article XI, Section 2(a).

Accordingly we DENY this protest.

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 Supervisor 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
885 Third Avenue, Suite 1000
New York, New York 10022
Fax: (212) 751-4864

Copies of the request for hearing must be served upon the parties, as well as upon the Election Supervisor for the International Brotherhood of Teamsters, 1725 K Street, N.W., Suite 1400, Washington, D.C. 20007-5135, all within the time prescribed above. A copy of the protest must accompany the request for hearing.

Richard W. Mark
Election Supervisor

cc: Kenneth Conboy
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