

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

IN RE: SAM COOK &)	Protest Decision 2010 ESD 60
RICHARD SANDBERG,)	Issued: December 22, 2010
)	OES Case No. P-063-121710-ME
Protestors.)	
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Sam Cook and Richard Sandberg, members of Local Union 377, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2010-2011 IBT International Union Delegate and Officer Election (“*Rules*”). The protest alleged that Local Union 377 campaigned using union resources, in violation of the *Rules*.

Election Supervisor representative Peter V. Marks, Sr., investigated this protest.

Findings of Fact and Analysis

In mail that arrived at their homes on December 14, 2010, the protestors received Local Union 377’s plan summary for the delegates and alternate delegates election, which included notice of the nominations meeting to take place January 11, 2011. The plan summary was printed on letterhead of the Office of the Election Supervisor as required by the *Rules*.

On the same date in a separate envelope, the protestors received a letter on local union letterhead entitled “INCREASED BENEFITS.” The letter opened with “Dear Local 377 Member,” and read: “We are pleased to announce that all members and retirees now have increased benefits at NO COST TO YOU. These benefits are jointly sponsored with American Income Life Insurance Company, a 100% union company servicing working families for more than 50 years.” The letter detailed an accidental death and dismemberment benefit of \$3,000 and a prescriptions, hearing and vision discount card available to members and retirees who return a reply card. It directed recipients with questions about the benefits to contact American Income Life directly at a toll-free number. The letter was signed by John Lesicko, principal officer of the local union; the names of elected officers and business agents were printed at the left margin.

The protestors alleged that the arrival on the same date of the notice of nominations meeting and announcement of increased benefits had the purpose or effect of giving the incumbent officers a campaign advantage in the coming delegates and alternate delegates election.

Investigation showed American Income Life provides the same benefit to other Teamster local union members and retirees and to members of a wide variety of unions across the nation. AIL periodically sends letters explaining available benefits to the members of local unions seeking their participation; it sends follow-up letters to the members who do not respond to the initial mailing. The letters appear on local union letterhead and are signed by the principal officer because experience shows that letters from the union gain better consideration from the recipient than unsolicited letters from an insurance company. The printing and mailing of the letter are done at AIL’s cost. AIL also determines the timing of the mailing.

The text of the letter at issue here does not give credit to the local union leadership for obtaining the benefit, nor does it refer to local union politics or the delegates and alternate delegates election. Investigation showed that there was no coordination between AIL and the local union concerning the timing of the letter.

Article VII, Section 12(c) prohibits use of union resources (including local union letterhead and mailing list) to assist in campaigning, unless all candidates are provided advance written notice of the availability of such assistance. Article XI, Section 1(b)(2) prohibits employer assistance “where the purpose, object or foreseeable effect of the contribution is to influence, positively or negatively, the election of a candidate.” In *Hull*, 2001 EAD 153 (February 10, 2001), *aff’d*, 01 EAM 37 (February 21, 2001), Election Administrator Wertheimer found that an insurance letter sent to members violated these provisions. There, the letter was sent 3 weeks before the mailing of ballots in the delegates and alternate delegates election. In contrast to past letters that merely announced benefits and encouraged recipients to sign up for them, the protested letter expressly praised the local union principal officer (also a delegate candidate) for obtaining the benefit the letter announced. The Election Administrator found that the insurance letter constituted an impermissible employer contribution to the principal officer’s delegate campaign and that use of the local union mailing list to accomplish the mailing was an improper use of union resources.

In contrast to the situation in *Hull*, the letter at issue here is, in substance, the same as past letters from the insurance company. It did not praise the incumbent officers or business agents for obtaining the benefit the letter announced. It was sent only to those members who had not responded to a previous mailing. The mailing occurred weeks before the date for delegate nominations at Local Union 377, and AIL, not the local union or its officers, independently decided when to mail the letter. On these facts, we find that the letter does not constitute campaign material. Therefore, we find no improper use of union resources and no employer contribution.

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, NY 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, 1801 K Street, N.W., Suite 421 L,

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Washington, D.C. 20006, 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
2010 ESD 60

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