

May 28, 2011

Justin Muraki	G/H	1522	Yes
Dan Schooler	G/H	1512	Yes
Jerry Dowling	G/H	1511	Yes
Greg Bashem	G/H	1508	Yes
Jack Zuelich	G/H	1495	Yes
Greg Sullivan	986/Pope	640	No
Joseph Prisco	986/Pope	637	No
Douglas Rojas	986/Pope	634	No
Larry Parker	986/Pope	626	No
Neal Syse	986/Pope	591	No
Rex Tubbs	986/Pope	588	No

Protestor Sullivan, a candidate on 986/Pope, alleged that Rich Petrovsky represented a member in a labor-management meeting while wearing a campaign button for Griswold/Harren.

Sullivan, a candidate for delegate, is the chief shop steward for mechanics employed by United Air Lines at San Francisco International Airport. He told our investigator that he received a phone call from shop steward Jim Cutler at about 6:15 a.m. on February 11, 2011 concerning a continuing problem involving a particular employee. Sullivan believed the issue needed to be addressed promptly because it was very sensitive and the company labor representative did not appear to understand how the parties to the contract had interpreted the relevant contractual language previously. A meeting was set up to take place immediately with the company labor representative, and Sullivan asked Petrovsky who was available to give him some backup. Petrovsky said that he was; he grabbed his coat and they left for the meeting.

Once in the meeting, Sullivan observed that Petrovsky was wearing two campaign buttons, one on a lanyard and the other on the lapel of his coat. According to Sullivan, both buttons were visible for the duration of the meeting, which lasted about thirty minutes. Sullivan told our investigator that he said nothing to Petrovsky about the buttons during the meeting because he did not want to draw attention to them or get into an argument with Petrovsky. Instead, he wanted them to attend to business. There was no campaigning during the meeting.

Cutler, the shop steward, said he called Sullivan into the situation with the member because he believed the employer's treatment of her bordered on harassment. Sullivan brought Petrovsky to the meeting with the employer. Cutler said that Petrovsky wore his Teamsters' jacket with the slate button at the meeting. Cutler noticed only one button. Cutler said there was no conversation about the election at the labor-management meeting, and that all of the union's representatives were focused on rectifying the situation for the member.

Petrovsky is a local union business agent responsible for mechanics employed by UAL at SFO. He arrived at work on February 11 at 5:30 a.m. in the union office at the maintenance base. Petrovsky said that Sullivan came in at 6:30 a.m. and said, "I have a meeting going on and I could use your backup." Petrovsky said he grabbed his jacket and went out the door with Sullivan to meet with the company labor representative, the aggrieved worker, and shop steward Cutler.

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Petrovsky admitted to our investigator that he had a slate support button on the lapel of his jacket, but said he was unaware it was there when he entered the meeting or at any time during the meeting. He also admitted that he had a campaign button on his badge as well; he wore the badge on his lapel and said he was unaware of the campaign button there either.

Sullivan filed this protest the day after the meeting.

Analysis

The propriety of wearing campaign buttons in meetings with management was decided in *Stockton*, 2001 EAD 292 (March 31, 2001), *viz.*

To guard against the appearance of local union support for any particular delegate candidate or slate that might be created when a representative of the union wears campaign insignia while dealing with any third party as representatives of the union, such displays by representatives of the union serving as such are prohibited. *See Advisory on Wearing of Campaign Buttons and Other Emblems* (October 10, 2000), and Addendum to *Advisory on Wearing of Campaign Buttons and Other Emblems* (March 8, 2001). This restriction applies not only to union officers, business agents and full-time employees, but also to any member who represents the union in dealings with third parties. *Id.*

The first cited advisory provided the following rationale for this rule. Thus,

[A]n unrelated third party might assume that the union entity was supporting or opposing a particular candidate or group of candidates if a union officer, business agent or employee were permitted to wear campaign emblems during the time he/she was representing the union in relations with unrelated third parties. Accordingly, while union officers, business agents, and employees may wear campaign emblems during working hours and while engaged in their regular union business, they may not wear such emblems when representing the union before or with an unrelated third party. Thus, union officers, business agents and employees may not wear campaign emblems when meeting with an employer of IBT members for collective bargaining or grievance resolution, when participating either as an advocate, witness or panel member in grievance hearings, when appearing on behalf of the union before legislative, administrative or judicial tribunals, when making public appearances on behalf of the union, or when engaged in similar type activities where the wearing of a campaign emblem might inappropriately suggest that the union with which the officer, business agent or employee is affiliated, is, as an entity supporting or opposing any particular candidate or group of candidates.

The addendum to this advisory extended the prohibition to “any member who represents the union in dealings with third parties. Therefore any member, including a part-time union employee or a steward, who represents the union should not wear campaign emblems while engaging in any activity described above.”

The precedent provided by *Stockton* has made it unnecessary to reissue the cited advisories in this election cycle.

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Petrovsky violated this principle by wearing campaign buttons while representing the union during a meeting with management.

Although this protest was filed pre-election, we consider it in a post-election context pursuant to Article XIII, Section 2(f)(2). Post-election protests may be considered and remedied only if the conduct may have affected the outcome of the election. We find that Petrovsky's conduct did not affect the outcome of the election. We reach this conclusion because of the wide margin between winning and losing candidates in the delegate election³, and the small number of members who were exposed to the violation⁴. Although we find that Petrovsky's act of wearing campaign buttons into a labor-management meeting did not affect the outcome of Local Union 986's delegates election, we order him to cease and desist from such conduct during the remainder of the period the *Rules* remain in effect.

With this exception, we otherwise DENY the 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, 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
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³ The margin between the winning candidate with the fewest votes and the losing candidate with the most votes was 855 on 2,148 ballots counted.

⁴ Only three members (Sullivan, Cutler, and the member who was the subject of the grievance) were exposed to the violation. Of these, Sullivan was a candidate on the opposite slate and the protestor here, and thus was unlikely to be influenced by the violation.

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