

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

<b>IN RE: FRED ZUCKERMAN,</b>	)	Protest Decision 2011 ESD 335
	)	Issued: September 30, 2011
<b>Protestor.</b>	)	OES Case No. P-329-092211-MW
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In *Nichols*, 2011 ESD 306 (August 5, 2011), *aff'd*, 11 EAM 55 (August 16, 2011), we found that Local Union 50 had violated the *Rules* by permitting a candidate for International office on the Gegare-Sheard slate to campaign during a general membership meeting held May 23, 2011. We remedied the violation by, among other things, ordering the local union to permit campaigning at the September 21 general membership meeting. Specifically, we directed the local union “to permit the Hoffa-Hall 2011 campaign and the Pope campaign each to address the local union membership meeting to be held on Wednesday, September 21, 2011 for a period not to exceed 30 minutes. The purpose of this remedy is to level the playing field between the Gegare campaign and the other campaigns.”

In accord with the terms of the decision, Hoffa-Hall 2011 gave timely notice of its intention to access the remedy. It notified Local Union 50, the Pope campaign, and OES that Brian Buhle, candidate for IBT Central region vice president on its slate, would appear at the September 21 meeting.<sup>1</sup> The protest here alleged that Buhle spoke far longer than the 30 minutes allotted and that Hoffa-Hall 2011 supporters distributed campaign material during the meeting. The protest asserted that these actions showed contempt for the Election Supervisor and the election process and requested that an appropriate remedy be imposed.

Election Supervisor representative Jeffrey Ellison investigated this protest.

Investigation showed that Local Union 50’s September 21 membership meeting convened promptly at 7:30 p.m. and concluded by 7:50 p.m. as directed by our decision. Buhle took the podium at 7:50 p.m. and addressed the gathering, estimated at 35 to 50 persons, for a period of time. Buhle told our investigator that he did not note the time when he assumed the podium nor when he left, but he thought he spoke for 20 minutes before opening the floor to questions. Pat Nichols, the protestor in the case that gave rise to this campaign remedy, attended the meeting and said that Buhle spoke for 30 minutes before asking for questions. Jeff Combs, a member of Local Union 135 who accompanied Buhle to the meeting, stated that he did not note Buhle’s starting and ending times nor how long Buhle spoke.

Buhle, Nichols and Combs all stated that Buhle was aware of his 30 minute limit and referred to it more than once during the presentation, indicating that he needed to end so as to avoid a protest.

Local Union 50, through its counsel, responded to the protest by stating that Buhle finished his presentation within the 30 minute allotment and proceeded to take questions from those assembled. He passed the 30 minute mark during the question and answer period, and Buhle acknowledged that he was out of time and needed to wrap up, stating that a protest likely would be

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<sup>1</sup> The Pope campaign did not access the membership meeting portion of the remedy.

filed. However, the response stated that Buhle continued to answer questions for an additional 15 to 20 minutes. Principal officer Scott Alexander chaired and concluded the membership meeting and then turned the podium over to Buhle. Alexander remained in the assembly room for Buhle's presentation. Alexander did not take any action to limit or control the length of Buhle's presentation, as Buhle acknowledged to the gathering at the start and near the 30 minute mark that he was under a 30 minute time limit and appeared to be aware of the time.

Protestor Zuckerman was campaigning in Local Union 50's parking lot before, during and after the meeting, together with Brad Slawson, Sr., and Jerry Conner. Zuckerman, Slawson and Conner are candidates for IBT Central region vice president on the Gegare-Sheard slate. Zuckerman stated that a Local Union 50 member stepped into and out of the meeting to report on Buhle's presentation. According to Zuckerman, the member reported that Buhle began speaking at 7:50 p.m. and answered the last question at 8:44 p.m., for a total of 54 minutes.

Buhle acknowledged that the question and answer period continued past the 30 minute mark. However, he stated that he attempted several times to bring the questions to a close in order to honor the time limit. He told our investigator that he did not want to be rude to the questioners. He finally stated to the group that he needed to end but would be available in the parking lot to answer the questions of those who did not have the opportunity to ask them in the assembly room.

With respect to the distribution of campaign materials inside the union hall, Nichols acknowledged that he brought Hoffa bumper stickers to the meeting for distribution.

On these facts, we DENY the protest. We find that Buhle completed his formal presentation to the membership within the 30 minutes permitted by the remedy we ordered and thereby demonstrated his intention to comply with the time limit. Although the question and answer period extended the presentation beyond the 30 minute mark, we find that Buhle acted reasonably under the circumstances to bring the session to a close.

Finally, distribution of campaign material inside the hall was expressly authorized by our decision in *Nichols*.

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,

**Zuckerman**, 2011 ESD 335  
September 30 2011

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  
2011 ESD 335

**Zuckerman**, 2011 ESD 335  
September 30 2011

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