

Findings of Facts

Local 728 is headquartered in Atlanta, Georgia, and represents employees at United Parcel Service (“UPS”) Hubs in that area. In late Spring 2000, Local 728 decided to conduct a June membership drive among non-member UPS employees. The Local had done this before, and had distributed food and beverages to non-members at UPS facilities as part of its recruitment efforts.

For the June 2000 drive, Local 728 erected a tent in the parking lot of one of UPS’s Atlanta facilities, and placed membership literature and forms under the tent. Hot dogs were cooked over a grill set up adjacent to the tent. Local 728 Business Agents Ken Redding, Jimmy Paine and Paul Parker all agree that the local established the dates for the membership drive a week or two before the drive was actually conducted during the week beginning June 26, 2000. UPS labor relations manager Bill Zbieszkowski was telephoned two weeks before the membership drive, and was asked for permission for stewards Kathy McNeil, Alonzo Williamson and Randel Daniel to be released to assist in the membership drives. On June 21, 2000, Local 728 secretary-treasurer Richard Black confirmed this in writing with the employer.

On Friday, June 23, Parker purchased \$349.11 in supplies for the cook-out/membership drive with local union funds. On Sunday, June 25, Redding asked Waymon Stroud, president of Local 728, to permit himself and Parker to take a vacation day on Monday, June 26. There was some talk about campaigning, but Stroud told Redding and Parker that they would be on vacation and therefore free to do as they pleased. Tony Layfield, Local 728 bookkeeper, stated that he had been notified on Tuesday, June 27, that Redding and Parker had been on vacation the day before.

On Monday, June 26, Redding and Parker helped erect the tent and set up the tables at UPS’s Pleasantdale Hub. Parker cooked most of the hot dogs. As employees stopped at the tent for a hot dog, Parker pulled them on the side and attempted to get Hoffa slate petitions signed. If employees asked about the petition, they were directed to either Redding or Parker. Parker stated that the membership drive had been planned and arrangements made when it was decided to use the activity to circulate the accreditation petition. He conceded that no other candidates or their supporters were invited to use the event to circulate petitions, claiming that he knew of no one, other than the protester, who supported a candidate other than Hoffa.

The Hoffa slate petitions were circulated only during the membership drive at the Pleasantdale Hub on Monday, June 26. Both Parker and Redding explained there was no need to circulate the petitions at the other locations inasmuch as the three job stewards released from their regular duties with UPS (McNeil, Williamson and Daniel) to assist with the membership drive had been given petitions for circulating when they returned to their respective work sites.

Several Local 728 members saw the Hoffa accreditation petitions on the table next to the new membership forms. There were twelve petitions, one for each candidate on the Hoffa Slate. Some of the petitions contain sixteen signatures and others contain seventeen signatures. Over 300 new members were enrolled during the week of the drive.

Analysis and Conclusion

Local 728 violated Article VII, Section 11(c) and Article XI, Section 1(b)(3) and (6) of the *Rules* by using union resources, including the lure of free food and beverages, to solicit petition signatures supporting the candidacy of incumbent General President Hoffa and his slate. The local union's conduct here violates the *Rules* since the local union was not reimbursed for the fair market value of the support provided, and since the local union failed to provide other candidates for International office with advance notice of the membership drive at UPS and an equal opportunity to engage in campaign activity. Moreover, the campaign activity here was not incidental to regular union business. Instead, Local 728 union officials knew well in advance of the membership drive, and deliberately decided in advance to use the event to promote the candidacy of the Hoffa slate. Accordingly, the protest is GRANTED.

Remedy

When the *Rules* have been violated, the Election Administrator "may take whatever remedial action is appropriate." Article XIII, Section 4. In fashioning the appropriate remedy, the Election Administrator considers the nature and seriousness of the violation, as well as its potential for interference with the election process. Based on the foregoing, the Election Administrator orders the following:

1. Local 728 shall immediately cease and desist from permitting and authorizing the use of local union funds and facilities to support the candidacy of those affiliated with the Hoffa slate.
2. Within five (5) days of receipt of this decision, Local 728 President Wayman Stroud shall have the attached "Notice To Local Union 728 Members and Employees" posted at the Local Union office. Within that same time period, Mr. Stroud shall post the attached "Notice to Local Union 728 Members and Employees" on all bulletin boards at Local Union 728 worksites.
3. The twelve petitions circulated at the UPS Pleasantdale Hub on June 26 (for James Hoffa, C. Thomas Keegel, Ken Wood, Tyson Johnson, Ralph Taurone, Chester Glanton, Fred Gegare, Randy Cammack, Thomas O'Donnell, Ron McClain, Jose Cadiz, John Steger) are declared void. They shall be forwarded to the Election Administrator's office by August 8, 2000, and shall be destroyed by the Office of the Election Administrator.
4. Within two (2) days of making the postings required in Paragraph 2 above, Mr. Stroud must submit an affidavit to the Election Administrator attesting to his compliance with this order.

An order of the Election Administrator, unless otherwise stayed, takes immediate effect against a party found to be in violation of the *Rules*. *Lopez*, 96 EAM 73.

Richards, 2000 EAD 7
August 1, 2000

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:

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 the parties listed above, as well as upon the Election Administrator for the International Brotherhood of Teamsters, c/o International Brotherhood of Teamsters, 25 Louisiana Ave., NW, Washington, DC 20001, all within the time period 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
J. Griffin Morgan
Dolores Hall
2000EAD7

NOTICE TO TEAMSTERS LOCAL UNION 728 MEMBERS AND EMPLOYEES

The Rules for the 2000-2001 IBT International Union Delegate and Officer Election (“*Rules*”) prohibit your local union from directly or indirectly using union funds or other things of value to promote the candidacy of any individual for any delegate or International officer position. This prohibition includes the use of union funds, facilities, equipment, stationery, and personnel. The only exception to this prohibition is if the local union is compensated at fair market value for its assistance and all candidates are provided equal access to the same assistance and are advised in advance, in writing, of the availability of such assistance to their campaign.

The Election Administrator will not permit any such improper use of your local union’s funds.

The Election Administrator has concluded that such an improper usage of local union funds and equipment has occurred and has ordered Local 728 to cease and desist from permitting and authorizing the use of local union funds and equipment to support the candidacy of candidates affiliated with the Hoffa slate. The Election Administrator has further ordered that the Hoffa slate petitions circulated on June 26 during a membership drive at the Pleasantdale Hub shall be forwarded to the Election Administrator’s office for destruction, as they have been declared void.

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, 25 Louisiana Ave., NW, Washington, DC 20001, telephone 800-565-VOTE, telecopier (202) 624-8711

Wayman B. Stroud, Sr., President
IBT Local 728

This is an official notice and must remain posted for thirty (30) consecutive days from the day of initial posting, and must not be altered, defaced or covered by any other material.

Prepared and approved by William A. Wertheimer, Jr., Election Administrator for the International Brotherhood of Teamsters.

Richards, 2000 EAD 7
August 1, 2000

DISTRIBUTION LIST VIA UPS NEXT DAY AIR:

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