

IN RE:

ROBERT BOUVIER

00 - Elec. App. – 006 (KC)

This matter is an appeal from the Election Administrator’s decision, dated August 25, 2000, Office of the Election Administrator. The request for a hearing was filed by Ron Douglas on behalf of Robert Bouvier on September 1, 2000.

A hearing was held before me on September 8, 2000. The following persons were heard by way of teleconference: Jeffrey Ellison, Esq. for the Election Administrator’s Office; Ron Douglas, Executive Assistant of Teamsters Canada; J. Douglas Korney of Korney and Heldt and Gino Castiglio, Esq. of Castiglio & Associates, on behalf of Teamsters Canada; and Robert Bouvier, President of Teamsters Canada.

By letter dated August 25, 2000 (“Decision”), the Election Administrator notified Robert Bouvier, President and International Director of Teamsters Canada that the Election Administrator is without authority to validate petition signatures gathered without Social Insurance Numbers in Canada for Canadian candidates, under the Rules for the 2000-2001 IBT International Union Delegates and Officer Election (“Rules”).

The Election Administrator relied upon Article X, § 4(a)(1)(i) of the Rules, which states that “the Election Administrator shall . . . void any signature or group of signatures where the signatory . . . failed . . . to state his or her . . . social security number” (emphasis added).

By letter from Ron Douglas, Executive Assistant to Mr. Bouvier dated September 1, 2000 (“Letter”) Mr. Bouvier appealed the Election Administrator’s denial upon the ground

that “[u]nder Canadian law we cannot require a member to disclose his or her Social Insurance Number on a petition for accrediting candidates.” Letter, 2. Mr. Bouvier asserts that apparently of 5277 petition signatures from Canadian members sent to the Hoffa campaign, only 2228 (42%) appear to be valid. He states that the “vast majority” of the invalidated signatures lack a Social Insurance Number. (“SIN”) Id., 3.

Mr. Bouvier points to the provision in Article I of the Rules that authorizes the Election Administrator to recommend to the IBT General Executive Board and the Government, modification or supplement of the Rules, presumably including deletion of the SIN, as a petition validation requirement, to ensure a fair election.

The Election Administrator observes that the SIN as an identifier in Canada was required and enforced in the 1991 and 1996 IBT elections without incident; that the present Rules were circulated for comment in a timely manner prior to their effective date and no complaint or concern was heard from Canadian members; and that Canadian SINs are maintained and utilized in the IBT Titan system as the principal identifier for all Union business, again without incident or complaint. He also asserts that there is no practical way to verify authenticity of the signatures without the principle identifier.

A hearing was held on September 8, 2000. It was conceded that at issue here is a Provincial civil code enactment R.S.Q.c.P.39.1 (“the Act”) in Quebec, the object of which is the protection of personal information. Mr. Bouvier’s legal counselor, in an opinion dated August 14, 2000 and submitted to me, states that section 5 of the Act “stipulates that an enterprise [the IBT] collecting personal information may collect only the information necessary for the object of the file,” at 1. This is not remarkable, and by its terms invites a substantive inquiry on necessity.

Regrettably, all that is offered are conclusory assertions. She concludes, without a factual demonstration of an adequate basis, as follows:

Because of the Confidentiality of Social Security numbers, it is impossible, even illegal, on the part of the Teamsters to force an individual to disclose his social insurance number on a petition for the accreditation of a candidate in the next election, since this information is not necessary for the validity of the petition and not necessary for the accreditation of the candidate to be legitimate . . . the IBT and Teamsters Canada have no serious or legitimate interest that would justify [use of the numbers], (emphasis added), at 2.

This is not very useful because it betrays ignorance of, or indifference to, the structural complexities, computerized and otherwise, cited by the Election Administrator in his decision, to the effect that no suitable alternative to the SIN exists in the conduct of the IBT International election. The burden is of course upon the Appellants to effectively challenge that finding.

Since Mr. Bouvier does not, beyond generalities<sup>1</sup>, propose an efficient and effective alternative to rebut the assertion of the Election Administrator that none exists, and since I have before me no evidence that rival slate petitions of non-Hoffa affiliated candidates in Quebec have suffered certification petition deficiencies because of the requirements of the Quebec civil code, I conclude, based upon the record before me, that a) no violation of Quebec statute law has occurred through the certification process under the Rules and b) the general fairness doctrine under the Rules is not offended by the declination of the Election Administrator

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<sup>1</sup> Mr. Bouvier's letter to Mr. Wertheimer dated August 22, 2000 proposes an alternative that might address good standing of petition signers but not authenticity of their signatures.

to exercise his discretion under the Rules to petition the IBT and the Government to modify the Rules in respect to the use of SINs in Quebec.<sup>2</sup>

I conclude that the Election Appeals Master has jurisdiction under the Rules to hear and decide this matter, and the Election Administrator's arguments to the contrary are rejected.

The Election Administrator's decision is in all other respects affirmed.

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Kenneth Conboy  
Election Appeals Master

Dated: September 29, 2000

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<sup>2</sup> The legal opinion of Claude G. Melançon, dated August 22, 2000, also submitted by Mr. Bouvier, makes it clear that rights under the Act are personal to the holder of the SIN, and if he or she chooses to withhold consent (i.e. not place it on the petition) to its use, no issue arises under the Act, at 3. Furthermore, there is no evidence before me that any Canadian member omitted posting his SIN because of privacy concerns and not inadvertence.

We received additional legal and case citations after the hearing on September 12 and 19, 2000 on behalf of Mr. Bouvier. None, however, address the question of whether individual members, acting privately themselves or for candidates of their choice in collecting accreditation petitions, are "enterprises" within the meaning of the Act. Furthermore, none deal with nomination petitions in elections, and all turn upon a factual determination of necessity, which, as noted, has not been controverted here.