

IN RE:

DAVID THORNSBERRY

00 - Elec. App. – 012 (KC)

This matter is an appeal from the Election Administrator's decision, dated November 17, 2000, Office of the Election Administrator Case No. PR071701MW, Protest Decision 2000 EAD 48. The request for a hearing was filed by Fred Zuckerman, President of Teamsters Local Union 89 on November 28, 2000.

A hearing was held before me on December 4, 2000. The following persons were heard by way of teleconference: Jeffrey Ellison, Esq. for the Election Administrator's Office and David Thornsberry, a member of Local Union 89. The following persons were present by way of conference: Fred Zuckerman, President, Local Union 89 and Irwin Cutler, Jr., Esq. on behalf of Local Union 89

Mr. Thornsberry asserted in his protest that certain business agents of Local 89 solicited accreditation signatures for the Hoffa Campaign inside the local's union hall during business hours.

We note at the outset that Local 89 complains that the protest was not filed on a timely basis and that the Election Administrator did not issue his decision on a timely basis. We have noted many times that these deadlines are not jurisdictional but prudential, and under the circumstances of this case, the objections are overruled.

The Election Administrator found violations of the Election Rules based upon an investigation that included interviews and credibility assessments of numerous persons who were

present at two separate incidents upon which the protest is predicated. The Election Administrator's findings, that campaign activity was conducted inside the union hall on union paid time on a discriminatory basis, have not been controverted or impugned on appeal. There is, further, no basis to consider otherwise impermissible campaigning as having been de minimis and incidental to union business. Accordingly, his decision on this matter is affirmed. A separate finding, that the local president attested to the validity of signatures on the petitions that he did not witness, has not been contested on appeal.

The notice remedy imposed by the Election Administrator is modified to strike the word "funds" in the second line of the third paragraph and substitute the word "facilities". In the third line of the same paragraph the words "funds and" shall also be deleted. No other modifications in the notice will be required. All other parts of the remedy are affirmed as announced.

____s/Kenneth Conboy_____
Kenneth Conboy
Election Appeals Master

Dated: December 12, 2000