

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

<b>IN RE: ALFRED P. DEREY,</b>	)	Protest Decision 2001 EAD 233
	)	Issued: March 12, 2001
	)	OEA Case No. PR030113MI
<b>Protector.</b>	)	
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Alfred Derey, secretary-treasurer of Local 372 and a delegate candidate, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2000-2001 IBT International Union Delegate and Officer Election (“*Rules*”). Derey alleges that his opponent in the delegate election, Dennis Nazelli, violated the *Rules* by copying Local 372’s membership list and providing it to third parties for phone banking in support of Nazelli’s campaign. Derey also alleges that one of the people calling on Nazelli’s behalf has asked for information that may violate the *Rules*’ protection of members’ right to vote without interference.

Election Administrator representative Jason Weidenfeld investigated the protest.

**Findings of Fact**

Nazelli supports Tom Leedham’s campaign for General President and received membership lists from the Leedham campaign. Nazelli copied the lists and distributed them to volunteers who called members on Nazelli’s behalf. The volunteers—Robert Zvonek, Robert Horvath, and Paul Kulka—are active members of the IBT. The volunteers called Local 372 members who lived near them, as specified in a copied membership list with highlighted entries. The volunteers asked members for information concerning the upcoming delegate election.

Derey alleges that Horvath asked a member how he voted and says that the member laughed at Horvath and told him that he had already voted. Nazelli claims that he never told his volunteers to ask how members voted. Nazelli observed that the member did not respond to the caller.

Nazelli alleges that he has used the membership lists solely for campaigning and that he has maintained strict control over them. He also claims that once phone banking ended, he gathered all copies of the membership lists and confirmed with each volunteer that the list was not copied.

**Analysis**

The *Rules* permit membership lists obtained by International Officer candidates to be used by delegate candidates “to advance the accredited or nominated [International Officer] candidate’s campaign for nomination and/or election.” Article VII, Section 3(a). A question arises whether a delegate candidate may provide the list to supporters who volunteer their time

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by calling members. As the Election Officer stated in *Cipriani*, P420 (March 1, 1996), *aff'd*, 96 EAM 123 (March 13, 1996),

Such possession may attenuate the control of the original candidate possessor, but it is possibly the only way phone banking could be done without going to the prohibitive expense of creating a “boiler room” with commercially installed lines. Thus, this limited possession by volunteers is permitted . . . provided the accredited candidate and his/her intermediate agents (i.e., delegate/alternate candidates) remain responsible for instructing all volunteers in the requirements imposed by the rule, and scrupulously recovering all portions of the list from volunteers.

Therefore, it is not necessarily a violation of the *Rules* for Nazelli to disseminate Local 372’s membership list to volunteers. Because Derey has provided no evidence to contradict Nazelli’s claim that he has carefully maintained control of the membership lists at all times, we find that Nazelli’s copying of the lists for phone banking, and subsequent dissemination to volunteers, does not violate the *Rules*.

Derey also questions whether Horvath’s conduct violates the *Rules*’ prohibition against interference with a member’s right to vote. Article IV, Section (2). We find that even if Horvath asked members how they voted or plan to vote, such questions, without more, do not violate the *Rules*. Furthermore, the protest itself makes clear that the member who was questioned had already cast his vote and did not respond to the caller. In such circumstances, the volunteer has not interfered with the member’s right to vote.

For the foregoing reasons, we 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 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 all other parties, as well as upon the Election Administrator for the International Brotherhood of Teamsters, 727 15<sup>th</sup> Street NW, Tenth Floor, Washington, DC 20005 (facsimile: 202-454-1521), all within the time prescribed

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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  
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