

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

<b>IN RE: HOFFA UNITY SLATE,</b>	)	Protest Decision 2001 EAD 362
	)	Issued: May 11, 2001
	)	OEA Case No. PR050211AT
<b>Protestor.</b>	)	
<hr style="width: 100%;"/>		

The Hoffa Unity Slate 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”). The protest alleges Local 728 president Don Scott and other local officers, agents and stewards violated the Rules by photocopying and mailing to all stewards and alternate stewards copies of the Election Administrator’s decision in *Richards*, 2001 EAD 328 (April 26, 2001), and the Election Appeals Master’s decision in the same matter, 01 EAM 63 (May 3, 2001).

Election Administrator representative Jeffrey Ellison investigated the protest.

**Findings of Fact and Analysis**

In *Richards, supra*, we held that Jimmy Payne, Local 728 business agent and delegate candidate on the Local 728 Unity slate, had misappropriated union property for use in supporting his slate’s campaign. Further, we held he had obstructed our investigation by providing false evidence to our investigator. To remedy these violations, we ordered the local to rerun its delegate election and to post a notice that the election would be rerun; we ordered the Unity slate to reimburse the local the cost of the misappropriated property, to pay for remedial mailings by other slates and the independent candidate, and to cease and desist from further violations of the Rules. Finally, we ordered Payne disqualified from standing as a candidate for delegate or alternate delegate in the rerun election.

The Unity slate appealed our decision. While the appeal was pending, the local complied with our order that notice of the rerun election be posted on all worksite bulletin boards. On appeal, the Election Appeals Master affirmed our decision with respect to the disqualification of Payne but reversed the rerun order.

On May 7, the local sent to all stewards and alternate stewards a copy of both decisions, xerographically reduced to fit on front and back of 3 sheets. No transmittal letter or commentary accompanied the decisions.

Richard Black, the local’s secretary-treasurer, told our investigator the decisions were sent for two purposes. First, the membership was entitled to know the reasons triggering Payne’s disqualification as convention delegate, and the decisions provided those reasons. Second, notice of the rerun election was already posted, and the decision of the Election Appeals Master provided the only written notification that the rerun order was vacated.

The protestor argues distribution of the decisions violated the *Rules*. Noting this was the first instance in this election cycle where a decision was mailed to stewards, the protestor contends the distribution was intended “to influence [stewards’] votes.”

Article VII, Section 8(a) of the *Rules* provides that a union-financed communication may not be "used to support or attack any candidate or the candidacy of any person" and provides criteria for determining whether the communication is campaign material. The material distributed here is not campaign material *vis-à-vis* Payne because, by virtue of his disqualification, he is no longer in any respect a “candidate” in this election cycle. Nor is it campaign material with respect to the other members of the Local 728 Unity slate, since they were already elected at the time the material was published. Moreover, Payne’s disqualification as a convention delegate was a matter of legitimate interest to the membership that elected him, and the decisions contained purely factual information explaining the offenses that led to his forfeiture of delegate status. Finally, notice to the electorate in the form of the EAM’s decision that the rerun order was reversed was entirely legitimate. Accordingly, we DENY this 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 (fax: 202-454-1501), all within the time 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  
2001 EAD 362

*Hoffa Unity Slate*, 2001 EAD 362  
May 11, 2001

**DISTRIBUTION LIST VIA UPS NEXT DAY AIR:**

Patrick Szymanski  
IBT General Counsel  
25 Louisiana Ave. NW  
Washington, DC 20001

IBT Local 728  
Attn: Don Scott  
2540 Lakewood Avenue SW  
Atlanta, GA 30315

Bradley T. Raymond  
Finkel, Whitefield, Selik,  
Raymond, Ferrara & Feldman  
32300 Northwestern Highway  
Suite 200  
Farmington Hills, MI 48334

IBT Local 728  
Attn: Richard Black  
2540 Lakewood Avenue SW  
Atlanta, GA 30315

J. Douglas Korney  
Korney & Heldt  
30700 Telegraph Road  
Suite 1551  
Bingham Farms, MI 48025

IBT Local 728  
Attn: Greg Charron  
2540 Lakewood Avenue SW  
Atlanta, GA 30315

Jimi Richards  
2875 Acworth Due East Road  
Kennesaw, GA 30152

Barbara Harvey  
Penobscot Building  
Suite 1800  
645 Griswold  
Detroit, MI 48226

J. Griffin Morgan  
Elliott, Pishko, Gelbin & Morgan  
500 West Fourth Street  
Winston-Salem, NC 27120

Betty Grdina  
Yablonski, Both & Edelman  
Suite 800  
1140 Connecticut Ave. NW  
Washington, D.C. 20036

Jeffrey Ellison  
65 Cadillac Square, Suite 3727  
Detroit, MI 48226

Tom Leedham c/o Stefan Ostrach  
110 Mayfair  
Eugene, OR 97404

Hoffa Unity Slate 2001  
Attn: Todd Thompson  
209 Pennsylvania Avenue SE  
Washington, DC 20003

IBT Local 728  
2540 Lakewood Avenue SW  
Atlanta, GA 30315