

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

<b>IN RE: MARIA MARTINEZ,</b>	)	Protest Decision 2001 EAD 414
	)	Issued: July 27, 2001
	)	OEA Case No. PR062612NA
<b>Protestor.</b>	)	
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Maria Martinez, member and secretary-treasurer of Local 556, 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 that the IBT has endorsed the Hoffa Unity slate (“Hoffa slate”) by using words and phrases in its convention materials and presentations that are slogans of the Hoffa slate.

Election Administrator representative Jeffrey Ellison investigated the protest.

**Background**

Article VII, Section 8 of the *Rules* prohibits use of a union-financed publication or communication “to support or attack any candidate or the candidacy of any person.” Section 11(b) of the same article bars a union from endorsing or otherwise advancing a candidacy. Section 11(c) prohibits use of union funds, facilities, equipment and personnel “to assist in campaigning” unless the assistance is at candidate expense and is available to all candidates. Article XI, Section 1(b)(3) prohibits a union from contributing “anything of value” to a candidate “where the purpose, object or foreseeable effect of the contribution is to influence, positively or negatively, the election” of the candidate. Finally, Article XI, Section 1(b)(13) holds a candidate “strictly liable to insure that each contribution received is permitted under these *Rules*.”

The issue this protest presents is whether the union or its spokespersons violate these rules by employing as the union’s thematic devices the particular words and phrases that have been adopted by or become associated with a campaign. The precedent on such use of language provides the framework for our analysis of this issue.

In *Lopez*, P242 (December 19, 1995), *aff’d*, 96 EAM 51 (January 8, 1996), the protestor claimed that use of the phrase “Putting Members First” in a trustees local’s publications violated the *Rules* because the Carey slate employed the phrase as its principal campaign slogan. Rejecting the local’s argument that the phrase was “a generic trade union slogan which does not belong to any one individual or group,” Election Officer Quindel found that use of the phrase in the local’s publications constituted an endorsement of Carey, even though the use did not refer directly to the IBT election or Carey’s candidacy.

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In *Dethrow*, 2001 EAD 381 (June 4, 2001), we held that use of the word “unity” in a local newsletter article lauding the accomplishments of the Hoffa administration constituted an improper endorsement of the Hoffa candidacy. The article was headlined “IBT Convention a Showcase for Unity” and credited the incumbent administration with rebuilding “member unity.” We found as fact that “unity” is a principal slogan of the Hoffa slate, that it is used in the slate’s name, and that various conjugations of it are featured in the slate’s campaign materials. The slate’s prominent use of “unity” as a campaign theme represents its call to the union’s membership to come together politically behind the slate and its lead candidate. We held that “[t]he article’s emphasis on newly-found Teamster ‘unity,’ telegraphed in its headline, along with its commendation of the Hoffa administration’s accomplishments, is partisan praise for one side in the upcoming International officer elections.”

In *Martinez*, 2001 EAD 384 (June 11, 2001), *appeal withdrawn*, the protestor alleged that use of the phrase “Unity, Pride, Strength” in an IBT organizing brochure constituted an impermissible endorsement of the Hoffa slate. The brochure combined use of the phrase with acclaim for the Hoffa administration, to wit:

Since taking office in March 1999, General President James P. Hoffa and his administration have led the fight to return unity, pride and strength to the Teamsters. By winning strong contracts, enforcing those agreements and organizing the unorganized, the Hoffa administration has returned the Teamsters to the forefront of the labor movement.

Building on the findings of fact made in *Dethrow*, we found that the phrase “unity, pride, strength” also was a Hoffa slate campaign theme, an example of which is found on the slate’s website biography of Hoffa himself. Thus:

Since taking office on March 19, 1999, James P. Hoffa has been reuniting and rebuilding the International Brotherhood of Teamsters. Reaching out to his brothers and sisters throughout North America, Hoffa has made good on his pledges to bring Unity, Pride and Strength to the Teamsters.

[www.Hoffa2001.com/contents/meet](http://www.Hoffa2001.com/contents/meet).

We held that the brochure “crosse[d] the line ... in its direct praise of the accomplishments of the Hoffa administration itself, as opposed to the union, as well as its adoption of the Hoffa slate’s themes of ‘Unity,’ ‘Pride’ and ‘Strength.’” Although these three words, taken singly or in combination, may in some contexts be considered “generic trade union terms,” we found that “the content of the Hoffa slate’s campaign materials has made clear that the campaign has moved beyond [such] use ... Instead, these terms have become proxies for the Hoffa slate campaign itself.” Accordingly, where the terms have become “a central theme of [a] candidate’s campaign for reelection, and incorporated into a statement of praise of the candidate’s administration,” their use by union-financed publications and communications cannot pass the “tone, timing and

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content” standard set forth in *McLaughlin v. American Federation of Musicians*, 700 F.Supp. 726, 733 (S.D.N.Y. 1988) and *Martin*, 95 EAM 18 (October 2, 1995).

### **Findings of Fact**

Against the structure provided by the rules and precedents just discussed, the IBT held its convention June 25 through 29, 2001 in Las Vegas, Nevada. The IBT’s theme for the convention was “Building Better Lives. Together,” which it displayed prominently in packets of materials distributed to delegates, on delegate badges, and on streamers across the IBT’s official horses-and-wheel logo.<sup>1</sup>

In addition to this theme, the IBT and its spokespersons made repeated use of “unity” and “unity, pride, strength” throughout the convention. Examples follow:

*Convention materials distributed to delegates:* The cover letter to the packet of convention materials read, in part: “Our Union has important work to do in the coming days. When we convene on Monday, matters that affect the quality of life for Teamster families throughout North America will be before us. In the spirit of Unity, Pride and Strength that is the hallmark of Teamsters greatness, we will debate, consult, confer, and finally reach consensus on a variety of vital issues and, as a united body we will succeed.”

A placard placed on each delegate’s chair, to support next year’s contract campaign with United Parcel Service, read:

UNITY  
PRIDE  
STRENGTH  
2002

The IBT displayed and distributed materials bearing its official horses-and-wheel logo adorned with streamers bearing the words “Unity, Pride, Strength.”

*Day 1 of proceedings:* West region Vice President James Santangelo started the convention as temporary chairman with the words: “We open this convention under the theme of Building Better Lives. Together, better lives for our members and our families, better lives for all working people with pride, unity and strength.”

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<sup>1</sup> The IBT initially requested the Election Administrator to conduct a pre-convention review of all its convention materials. The Election Administrator agreed. The IBT, however, never followed through on this request.

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In his keynote address, Hoffa spoke of what it means to be a Teamster, saying in part: "A Teamster understands that our unity makes us strong. A Teamster understands that we must mobilize our ranks in order to make sure we can take on big business. A Teamster puts forth the extra hours to keep our brothers and sisters informed and mobilized. A Teamster is a walking organizer, helping others win fair treatment on the job. We stand together shoulder to shoulder, and we stand on the shoulders of those who came before us. We belong to a great and mighty force for good, the Teamsters movement. The Teamsters movement is a rare ray of light in a world that puts profits before people. The Teamsters movement is a vehicle for equality in a global economy that favors corporate rights over human rights. The Teamsters movement is a secret weapon of working families. It gives workers dignities and rights on the job. The corporations may have more money than us, but we have the people. That's the most important thing. Unified, proud and strong, that's what we're all about. We're out there."

Two videotapes shown to the delegates, with themes of IBT history and mission, repeated the phrase "Unity Pride Strength," at one point calling them "cornerstones of the union."

*Day 2 of proceedings:* General Secretary-Treasurer C. Thomas Keegel commenced his report on the state of the union's finances by declaring, "This is a great time to be a Teamster. It is great to be a Teamster today because our unity, our pride and our strength are back in this great union. Through unity, we can achieve our goal of building better lives together."

Keegel concluded his speech: "Now on a personal note. Brothers and sisters, you and I have been sent here by our rank and file as elected delegates and as leaders of this great International Union. It is our responsibility to lay the foundation for the 21<sup>st</sup> century, so that our great union moves into this century where it belongs, at the top. It also is true that we must come out of this convention united. There is nothing wrong with healthy discourse on our differences, but we are going to come out of this convention united, not like we did in '96. We're going to come out with one solid voice speaking for the rank and the file of this great union. Jim Hoffa said that the war is over, the civil war is over. And it's over. When we come out of this convention, we are going to deliver a message to those greedy corporations. We're going to deliver a message to those politicians that would destroy us. We're going to deliver a message that they thought they had us on our knees and knocked down for the count. The Teamsters are back. The Teamsters stand for what's right, they stand for dignity. They are the conscience of the working people. The Teamsters stand for what's right in America. God bless the Teamsters. Come out united."

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*Day 3 of proceedings:* A videotape containing the phrase “united, proud, strong,” shown the first day, was shown again. A second videotape, on the subject of political action, contained “unity, pride, strength.”

*Day 4 of proceedings:* A videotape on organizing contained “unity, pride, strength.”

*Day 5 of proceedings:* Immediately following the acceptance speech of James Hoffa and continuing for 98 seconds a large graphic reading “United We Win” was projected on the screens behind the center podium.

Immediately following the acceptance speech of Tom Leedham and continuing for more than 30 seconds, the phrase, “Unity, Pride, Strength” was projected on the screens behind the podium.

Near the close of the convention’s business, Hoffa announced to the delegates, “This week we had the most democratic and productive Teamsters Convention that we have seen in many years. We accomplished so much because we are once again unified and once again strong. Once again, we are all proud to be Teamsters.”

*Post convention:* In a press statement released on the last day of the convention, the IBT declared, “The International Brotherhood of Teamsters today wrapped up its 26<sup>th</sup> International Convention, ready to face the 21<sup>st</sup> Century united, proud and strong.”

### **Analysis**

The exhortation to unity is as old as the labor movement itself. Stated more commonly as a call for “solidarity,” a labor union strives to present a united front when confronting employers and their allies in government.

We held in *Martinez* that the terms “unity,” “pride,” and “strength” had become so closely associated with the Hoffa campaign as to make their use in union-financed publications and communications during the electoral period implicit endorsements of the Hoffa slate. We noted, however, that the words “are undoubtedly *in some contexts* ‘generic’ trade union terms” that do not carry an internal-union political message, and the union may employ those terms in such permissible contexts.

But given the pervasive use of the “unity” theme by the Hoffa slate, the permissible contexts in which the IBT may adopt the same slogan during the ongoing electoral campaign are sharply limited. The union and its spokespersons may permissibly call for unity in a campaign against a named employer or specific legislation because the audience’s attention is directed strongly to that particular legitimate trade union objective and away from an internal-union political message.

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However, when the union, through its leaders' words and the communication devices it employs, calls for a united delegation on broad, non-specific objectives at a convention that has, as a principal purpose, the nomination of candidates who will compete against each other for union office, the union implicitly suggests that dissent be silenced, especially where the themes the union employs are identical to the themes adopted by the incumbent candidate's campaign organization.

Context determines whether use of the phrases at issue here violates the *Rules*. In *Dethrow* and *Martinez*, the context amply demonstrated a connection between the union's impermissible use of the Hoffa slate's "unity" slogan and praise for the accomplishments of the incumbent candidate. In *Lopez*, the union's use of the Carey slate's "Putting Members First" slogan was found impermissible because the use of the phrase without connecting it to a specific legitimate labor union goal demonstrated contextual support for the Carey candidacy.

Here, use of "unity," "pride," and "strength" singly or in combination by the IBT or its spokespersons does not violate the *Rules* where the context demonstrates a connection to a legitimate union goal such as a contract campaign against a specific employer. But especially because the Hoffa campaign has monopolized use of the phrases, the IBT's use of "unity," "pride," or "strength" violates the *Rules* where 1) they are linked to praise for the incumbent candidate, 2) they are used in support of broad, non-specific goals, or 3) they stand alone.

Applied to the facts presented, we hold that use of the terms "unity," "pride," and "strength" at the IBT convention in most instances was intended to echo the Hoffa slate's campaign themes and therefore endorse that slate in violation of the *Rules*. Thus, use of the terms in the cover letter to delegates, in the Day 1 and 2 speeches by Santangelo, Hoffa, and Keegel, in all of the videotaped presentations, and as adornments to the IBT's official horses-and-wheel logo violated the *Rules* because context demonstrated they were used either to support broad, non-specific goals such as "Building Better Lives" or were stated as goals in and of themselves. However, the use of the terms in the UPS 2002 placard and related materials did not violate the *Rules* because the reader's attention was directed strongly to a legitimate trade union goal against a named employer.

We further hold that the IBT's large-screen display of the phrase "United We Win" immediately following Hoffa's acceptance speech and the phrase "Unity Pride Strength" immediately following Leedham's acceptance speech violated the *Rules*. The context for the use of these phrases was internal union politics, and the decision to employ terms that have become closely identified with the Hoffa slate implied the IBT's endorsement of that slate.

### **Remedy**

When the *Rules* have been violated, the Election Administrator "may take whatever remedial action is appropriate." Article XIII, Section 4. In fashioning the

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appropriate remedy, the Election Administrator considers the nature and seriousness of the violation, as well as its potential for interference with the election process.

To remedy the violation found, we order the IBT to mail the attached notice to all delegates, alternate delegates and registered guests of the 2001 convention no later than August 6, 2001. We further order the IBT to cease and desist from endorsing any candidate or slate of candidates in the pending election. We further order the IBT to cease and desist from using the terms “unity,” “pride” and “strength” singly or in combination unless the context demonstrates a connection to a legitimate union goal such as a contract campaign against a specific employer. This cease and desist order requires the IBT to refrain from using and distributing the videotapes presented to delegates at the convention for the balance of the electoral period, unless the terms “unity,” “pride,” and “strength” are deleted. The cease and desist order does not, however, prohibit the IBT from employing these terms in its contract campaign against United Parcel Service.

A decision of the Election Administrator takes immediate effect unless stayed.

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  
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**NOTICE TO MEMBERS OF THE INTERNATIONAL  
BROTHERHOOD OF TEAMSTERS WHO  
ATTENDED THE IBT CONVENTION**

Under the Rules for the 2000-2001 IBT International Union Delegate and Officer Election ("*Rules*"), a union may not endorse any candidate for office.

The Election Administrator will not permit any such endorsements.

The Election Administrator has determined that the IBT improperly endorsed the Hoffa Unity slate by adopting the campaign themes of that slate in speeches, videotaped presentations, and graphic displays employed at the 2001 convention. In particular, the IBT endorsed the Hoffa slate by displaying the phrase "United We Win" immediately following James P. Hoffa's acceptance speech as a nominated candidate for General President, by adopting the Hoffa slate's slogan "Unity Pride Strength" on the IBT's official horses-and-wheel logo and in speeches and videotapes presented to the convention, and by displaying that phrase immediately following Tom Leedham's acceptance speech.

The IBT has been ordered to cease and desist from making any endorsements in this election. The IBT has also been ordered to mail this notice to all delegates, alternate delegates, and registered guests who attended the IBT convention held June 25 through 29, 2001, in Las Vegas, Nevada.

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James P. Hoffa, General President



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**DISTRIBUTION LIST VIA NEXT DAY AIR:**

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