

OFFICE OF THE ELECTION ADMINISTRATOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: DARRELL HALL,)	Protest Decision 2001 EAD 450
)	Issued: September 13, 2001
)	OEA Case No. PR082711MW
Protestor.)	
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Darrell Hall, a member of Local Union 89, 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*”). He alleges that Local 89 used its newsletter to support the candidacy of James P. Hoffa in violation of the *Rules*.

Election Administrator representative Lois Tuttle investigated the protest.

Findings of Fact and Analysis

The May-June edition of *Local 89 Teamster*, the local’s newsletter, includes the following letter to the editor from Johnny Short, chief steward at Morgan Foods:

A little history of James R. Hoffa and James P. Hoffa at Morgan Foods in Austin, Indiana.

My grandfather, Charlie Reynolds, back in 1955 worked at Morgan Foods when Jimmy Hoffa, President of Teamsters organized the workers at Morgan Foods. My grandfather told me stories about it. He said that Hoffa was for the working men and women to get more benefits. He also said he met Mr. Hoffa one evening when he was tying his mule to the fence at Morgan’s when he was going to work. And he said Hoffa said, “We are all as one brothers and sisters as Teamsters” and shook his hand. My grandfather said he was a good man.

Now 45 years later, James P. Hoffa comes to Morgan Foods. I, Johnny Short, took a tour with President Hoffa at Morgan factory and he was really amazed at how the canning factory ran. Mr. Hoffa talked to every member he came upon. After the tour, Mr. Hoffa told me to be a good Teamster is to get more involved in union activity and to vote because it is our right.

After talking to James P. Hoffa, I think that Mr. Hoffa is the man for the future of Teamsters. I, Johnny Short, have been at Morgan Foods for 25 years and I can honestly say the only two General Presidents of Teamsters that have visited Morgan Foods has been Mr. James R. Hoffa and Mr. James P. Hoffa, which means a lot to all members.

Investigation shows the newsletter containing the foregoing was mailed to members June 19, 2001. On August 23, Hall requested that the local publish his own letter to the editor, which

praised Tom Leedham's candidacy. When the local rejected his letter, Hall filed this protest on August 27.

Publication of Short's letter violated the *Rules*. Article VII, Section 8(a) bars use of a union-financed publication "to support or attack any candidate or the candidacy of any person." Short's declaration that "Mr. Hoffa is the man for the future of Teamsters" is an obvious campaign endorsement, and, by publishing the letter, the local ignored fundamental fairness and the *Rules'* prohibitions on use of union resources for campaigning. An appropriate remedy for such a violation would be equal space for opposing candidates in the next edition of the newsletter¹ or, if the next edition would not be published before the election, a mailing of responsive campaign material to every member.²

However, the local contests the timeliness of this protest. Article XIII, Section 2(b) requires protests to "be filed within two (2) days of the day when the protestor becomes aware or reasonably should have become aware of the action protested or such protests shall be waived." The local asserts that Hall received the offending newsletter in late June but waited more than two months to file his protest. While we have often noted that time limits for filing protests are prudential and not jurisdictional,³ we decline to suspend the time limits in this case. Short's letter was improperly published by the local some four months before mailing of ballots in the International officer election. Were we to hold the instant protest timely filed and order the usual remedy, Hall's responsive letter would reach members' homes about the same time as ballots. Such critical timing would be directly attributable to Hall's delay in filing his protest and, on the facts presented here, we decline to allow dilatory conduct to reap such a reward.

Although the local violated the *Rules* by publishing Short's letter, we DENY Hall's protest as untimely.

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

¹ *Hasegawa*, 2001 EAD 423 (August 8, 2001), *appeal pending*; *see also Ostrach*, 2000 EAD 68 (December 20, 2000).

² *Kilmury*, P303 (February 15, 1996), *aff'd*, 96 EAM 109 (February 28, 1996).

³ *See, e.g., Aksamit*, 2001 EAD 213 (March 5, 2001), *aff'd*, 01 EAM 47 (March 16, 2001)

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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 15th Street NW, Tenth Floor, Washington, DC 20005 (facsimile: 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 450

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