

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

IN RE: STEFAN A. OSTRACH,)	Protest Decision 2001 EAD 480
)	Issued: September 28, 2001
)	OEA Case No. PR092712ME
Protestor.)	
_____)	

Stefan Ostrach, a member of Local 206 and treasurer for the Tom Leedham Rank and File Power campaign, 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*"). Ostrach alleges that Local 470 principal officer Thomas Hummel violated the *Rules* by sending a letter on Local 470 letterhead to IBT General President candidate Hoffa stating the local union's support for Hoffa.

Election Administrator representative Jason Weidenfeld investigated the protest.

Findings of Fact and Analysis

On September 20, 2001, Hummel sent a letter to Hoffa on local union letterhead. The letter informed Hoffa of the results of the local's officer election nomination meeting, which resulted in Hummel's unopposed nomination, and thus reelection, as principal officer. The closing paragraph of the letter states, "We will be concentrating all of our efforts to the Hoffa reelection campaign, and look forward to many years of mutual cooperation." Ostrach received a copy of the letter anonymously by fax.

Hummel says that he made a mistake by writing the last paragraph of the letter. Hummel said that the letter was sent solely to Hoffa and is the only document from Local 470 (external or internal) that refers to the IBT International officer election. Hummel also denies ever making any public statements as a union officer suggesting for whom members should vote. Even though the letter pledges Local 470's future support for Hoffa, there is no evidence (other than the letter itself) that Hummel in his official capacity or Local 470 has provided support for Hoffa. Ostrach has provided no evidence to the contrary.

Clearly union resources were used to inform Hoffa of Local 470's alleged support. Use of Local 470's stationery to support an International officer candidate is an improper use of union resources. Article XI, Section 1(b)(6) of the Rules provides that "[n]o Union funds or other things of value shall be used, directly or indirectly, to promote the candidacy of any individual. ... The use of the Union's official stationery with the Union's name, insignia or other mark identifying the Union is prohibited, irrespective of compensation or access." The Rules' prohibition on using union stationery to promote a candidate is absolute.

Article VII, Section 11(b) of the *Rules* further prohibits local unions from endorsing candidates. Hummel's letter, on its face, constitutes such an endorsement.

Accordingly, we GRANT the protest.

Remedy

When the Election Administrator determines that the *Rules* have been violated, he “may take whatever remedial action is appropriate.” Article XIII, Section 4. In fashioning the appropriate remedy, the Election Administrator views the nature and seriousness of the violation as well as its potential for interfering with the election process.

There is no evidence here that anyone other than the General President and the anonymous person who faxed Hummel’s letter to Ostrach received that letter. This situation therefore presents circumstances similar to the *Rules* violation remedied in *Hasegawa*, 2001 EAD 235 (March 13, 2001), where a letter attacking a candidate was produced with union resources while at the same time having limited circulation. We accordingly follow the remedy imposed in that case and order as follows:

All recipients of Hummel’s September 20, 2001 letter shall refrain from any distribution of the letter to any person, and shall mail all copies of the letter in their possession or control to the Election Administrator at the address set forth below, so that they are received by no later than October 5, 2001. No copies of the letter are to be retained by any person or entity. Further, all such persons are to identify to the Election Administrator in a writing to be received by that date any person to whom they distributed a copy of the letter. We further order Hummel to cease and desist from any further violations of the *Rules*.

An order of the Election Administrator, unless otherwise stayed, takes immediate effect against a party found to be in violation of the *Rules*. *Lopez*, 96 EAM 73 (February 13, 1996).

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 15th Street NW,

Ostrach, 2001 EAD 480
September 28, 2001

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 480

DISTRIBUTION LIST VIA UPS NEXT DAY AIR:

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

Thomas P. Hummel
IBT Local 470
3565 Sepviva Street
Philadelphia, PA 19134

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

James L. Hicks, Jr., P.C.
Suite 1100
2777 N. Stemmons Freeway
Dallas, TX 75207

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

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

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

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

Todd Thompson
209 Pennsylvania Ave., SE
Washington, DC 20003

IBT Local 470
3565 Sepviva Street
Philadelphia, PA 19134