

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

IN RE: DOUGLAS HENDERSON,)	Protest Decision 2001 EAD 515
)	Issued: October 22, 2001
)	OEA Case No. PR101215WE
Protestor.)	
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Douglas Henderson, a member of Local 760, 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*") against the Tom Leedham Rank and File Power slate ("Leedham slate"). He alleges that Local 763 secretary-treasurer Dave Reynolds violated Article VII, Section 7 of the *Rules* by refusing to provide Local 763 mailing labels to the Hoffa-Hobart slate for the mailing of campaign literature.

Findings of Fact and Analysis

Henderson was formerly a Local 763 business agent. He presently works for Joint Council 28, which is located in the same building as Local 763. On October 3, 2001, he wrote to Reynolds as follows on Hoffa-Hobart letterhead:

This letter is to inquire as to the cost associated with the production of the membership labels for your local. Our campaign would like to know the exact cost for the entire membership and the cost per specific bargaining unit (i.e. each labor agreement). Also, what the expected time frame that we could expect to receive the labels once we firm up our request with your office.

We would appreciate a response from your office within three (3) days of your receipt of this request.

This letter was hand-delivered to Reynolds' office on October 3. Henderson says he sought a response regarding this information in sufficient time to mail out campaign literature to Local 763 members to ensure receipt coincidentally with International officer election ballots, which were mailed on October 9, 2001.

Reynolds says he prepared a response on October 12 advising Henderson that he could not give him the labels, but would send the labels to a third party (as directed by the campaign for mailing along with its literature). Reynolds said he failed to show a carbon copy to the Election Administrator, as had Henderson, so he requested the secretary to re-type the letter and it was in his box for signature on October 16. The response was hand-delivered to Henderson on October 16, but still bears the October 12 date. It states:

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It was never the practice of the previous administration to charge members for mailing labels to be used for legitimate election purposes. I see no reason to alter that policy.

As you are aware, we cannot send the labels over to you. You must inform us where and when you want the labels delivered and our office will take care of it.

Henderson responded to Reynolds on October 16, after he received this letter. His response says:

This letter is a follow up to your response on my letter inquiring about Local 763 mailing labels. You indicated that the labels would have to be delivered by you (sic) office. Since our campaign utilizes a post office box as the mailing address it would be difficult for your staff to deliver the labels. Therefore, I am requesting that you produce the labels and me (sic) at the Joint Council's office and I will make arrangements to pick up the labels at your offices.

Our campaign would like the entire membership for your local. I would appreciate a response from your office at your earliest convenience.

Reynolds responded by letter of October 17 as follows:

In response to your note of October 16, 2001, it is impossible for the Local to hand over the mailing labels to you. It is against past policy, current policy, By-laws and the International Brotherhood of Teamsters Constitution. The best the Local can do is to deliver them to Grosse Mailing, the only Union mailing house in Seattle, or to any other mailing service of your choice.

Henderson advised the Election Administrator's representative on October 15 that, since the members had already received the ballots, his request for the labels was irrelevant. He requested the labels again on October 16, however.

Reynolds stated he has only been the Secretary-Treasurer of Local 763 since January 2001. He stated that, to his knowledge, the Local had no written policy on distribution of campaign literature. Reynolds acknowledged that he could have prepared a response to Henderson sooner than he did, but he stated he did not consider the request to be top priority. Reynolds stated he knew that Henderson wanted to mail out Hoffa campaign material and the request was made on Hoffa-Hobart stationery.

Article VII, Section 7(g) of the *Rules* requires local unions to adopt procedures for complying with candidates' requests for distribution of literature and specifically advise

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the candidates of the procedures. Reynolds stated that, to his knowledge, Local 763 has not done so. In addition, local unions have the duty under Section 7 to promptly reply to legitimate requests such as Henderson's. Reynolds did not do so here. Thus, while Local 763 may require the use of a mailing service to which membership mailing labels are to be delivered, it may not unreasonably delay in its response to requests under Section 7. Reynolds delay until October 16 in responding to an October 3 requests violated Article VII, Section 7, and we accordingly GRANT the protest.

Remedy

When the *Rules* have been violated, the Election Administrator "may take whatever remedial action is appropriate." Article XIII, Section 4. In fashioning the appropriate remedy, the Election Administrator considers the nature and seriousness of the violation, as well as its potential for interference with the election process.

Reynolds violation here has prevented the Hoffa-Hobart slate from timely mailing its campaign literature to members of Local 763 at a time coincident with receipt of ballots. In order to remedy this violation, we order Reynolds and Local 763 to cease and desist from any further violation of the *Rules*, to provide the mailing labels in question to a mailing house designated by the Hoffa-Hobart campaign within four hours of receipt of such designation, and to post the Notice attached hereto at each union bulletin board at the local union's offices and at each worksite represented by the local. The Notice shall be posted on all such bulletin boards by no later than October 24, 2001, and shall remain posted until November 13, 2001.

We will defer for the present any determination of the question of whether Reynolds's action here may have affected the ongoing International officer election so as to warrant relief under Article XIII, Section 4(t) or (u), either by itself or in combination with any other *Rules* violations.

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:

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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, 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 515

NOTICE TO MEMBERS OF IBT LOCAL 763

The Rules for the 2000-2001 IBT International Union Delegate and Officer Election (“*Rules*”) require local unions to adopt procedures for complying with requests by International officer candidates for distribution of campaign literature at the candidate’s expense, and to comply fairly with such requests.

The Election Administrator for the International Brotherhood of Teamsters has found that Local 763 secretary-treasurer Dave Reynolds unreasonably delayed a request from the Hoffa-Hobart campaign for mailing labels for the Local 763 membership for the mailing of the campaign’s candidate literature, and that this delay occurred just as ballots were being mailed.

The Election Administrator will not permit such violations of the *Rules*, and has ordered Reynolds and Local 763 to cease and desist from such violations, to provide the mailing labels to a mailing house designated by the campaign, and to post this notice on each Local 763 bulletin board. Until November 13, 2001.

Any protest you have regarding your rights under the *Rules* or any conduct by any person or entity which violates the *Rules* should be filed with William A. Wertheimer, Jr., Office of the Election Administrator, 727 Fifteenth Street, NW, Washington DC 20005, telephone 800-565-VOTE, fax (202) 454-1501.

William A. Wertheimer, Jr.

William A. Wertheimer, Jr.
Election Administrator

This is an official notice ordered by the Election Administrator for the International Brotherhood of Teamsters and must remain posted until November 13, 2001, and must not be altered, defaced or covered by any other material.

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DISTRIBUTION LIST VIA UPS NEXT DAY AIR:

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