

OFFICE OF THE ELECTION ADMINISTRATOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: BILL ZIMMERMAN,)	Protest Decision 2001 EAD 521
)	Issued: October 23, 2001
)	OEA Case No. PR101513WE
Protestor.)	
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Bill Zimmerman, a member of Local 206 and area coordinator for the Tom Leedham Rank and File Power campaign (the “Leedham 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*”). Zimmerman alleges that Local 223 secretary-treasurer Clayton Banry violated the *Rules* by sending to local union stewards for posting and distribution flyers supporting the Hoffa Unity slate (the “Hoffa campaign”).

Election Administrator representative Jason Weidenfeld investigated the protest.

Findings of Fact and Analysis

Banry and other members of Local 223’s executive board prepared an unsolicited mailing supporting the Hoffa campaign. The mailing was prepared for all local union stewards. The steward list, including addresses, was obtained from the local union pursuant to Article VII, Section 7 of the *Rules*. Banry and the other people preparing the mailing did so on vacation time and spent their own money on the mailing, including reimbursement to the local union for the use of its postage meter. We credit Banry’s statements about the preparation and distribution of the mailing.

Initially, the officers preparing the mailing planned to identify themselves by stating, “Teamsters Local 223 staff and executive board (as individuals) fully support the Hoffa Unity Slate, and we want to get the word out to the membership.” Banry stated that he and the other officers supporting Hoffa spoke with Election Administrator attorney Lois Tuttle on October 5 about the planned mailing and what was permissible under the *Rules* in terms of content and distribution. Tuttle recalls the conversation and confirms that she alerted the callers to some of the dangers of their planned mailing. Tuttle prepared a note immediately after the conversation and placed it on the proposed mailing. The note states that the mailing may violate the *Rules* “in terms of content and scheme. We can’t give them an advisory opinion on this – it’s too complex.”

After speaking with Tuttle, the officers revised the mailing before sending it. The mailing ultimately consisted of a cover letter and a one-page Hoffa campaign flyer. Instead of identifying the staff and the executive board on the cover letter and flyer, they ostensibly came solely from Banry. The mailing to local union stewards and acting stewards told them that Banry was the local union secretary-treasurer and noted that his title was provided for identification purposes only. The letter then stated that Banry supported the Hoffa campaign and

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that he “would really appreciate it if you would distribute in your work parking lots as well as post the enclosed fliers on all union bulletin boards for our members to read before casting their vote” (emphasis in original). The cover letter states in the “Re:” line that it pertains to “VOLUNTARY POSTING AND DISTRIBUTING MATERIAL.” The letter also instructs the stewards not to campaign during work hours. Finally, the letter closes with the line, “Again, we thank you for your support.”

The attachment to the letter is clearly campaign material supporting the Hoffa campaign prepared in the form of a memorandum. It is addressed to all Local 223 members from Banry and endorses the Hoffa campaign. Banry’s title, as with the letter, is allegedly provided “for identification purposes only.”

The protestor, a Local 223 member and a labor relations representative at the Oregon Nurses Association, indicated that steward Melanie Churilla had received the mailing. Churilla told our investigator that she showed the mailing to the protestor and that a decision was made not to post the mailing because it was unfair for Local 223 to issue this directive.

Local union officers can endorse candidates, provided the endorsement is made in their individual capacity, and any use of their title of office is identified as being used for identification purposes only. *See* Article VII, Section 11(b); *Jones*, 2001 EAD 222 (March 8, 2001). In addition, as we held in *Elias*, 2001 EAD 248 (March 20, 2001), a request to post campaign materials supporting a local union officer’s slate does not amount to coercion when the protestor offers no evidence of undue influence and the requested posting does not identify the candidate as a local union officer. Combining these decisions, we hold that the *Rules* do not prohibit local union officers, in their individual capacities, from endorsing candidates for International office when there is no evidence of coercion. In this case, we have been presented with evidence that a steward felt it was improper for a local union officer to send campaign materials to her for posting. In response, she did not post the materials. We find no evidence of coercion and therefore DENY the portion of the protest alleging a violation of Article VII, Section 11(b).

We also DENY the protest allegation challenging the campaign’s use of the local’s mailing list to send out the literature authored by the campaign represented by the endorsing members, since there is no evidence that the list was obtained in contravention of the *Rules* local unions are bound to follow in making such lists available. *See* Article VII, Section 7(a).

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
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