

IN RE:

CHARLES HENRY

01 - Elec. App. – 050(KC)

This matter is an appeal from the Election Administrator’s (the “EA”) decision 2001 EAD 230, issued March 12, 2001. The hearing was requested by Charles Henry, a candidate for delegate and member of Teamsters Local Union 317 in Syracuse, New York.

A hearing was held before me on March 21, 2001. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq. for the Election Administrator’s Office; Mr. Henry; and Gary Staring, secretary-treasurer and principal executive officer of Local Union 317. This office received no additional submissions.

Mr. Henry alleged that a campaign flyer produced by Joe “T” Travers, another independent delegate candidate from Local Union 317, violated the Rules. Using a sample ballot as its theme, the flyer repositioned the names of the delegate candidates so that they did not end up in the positions previously agreed upon by the candidates after the nomination meeting. Mr. Henry claims that the change in the lineup, which positioned him across from the Local Union 317 president Thomas “TK” Krakau, negatively impacted Mr. Henry’s campaign by giving the electorate the impression that Mr. Henry was running against the popular local president. Not realizing the error until the protest was filed, Mr. Travers, who blamed the local print shop for the realignment, apologized to Mr. Henry, discontinued handing out the original flyers and reprinted new flyers with the previously agreed positions.

In his appeal request, Mr. Henry argued it was unreasonable to assume that the change in ballot position was simply a mistake and that Mr. Travers did not inspect the flyers

before handing them out. He also claimed that he could find no one who ever received the corrected flyer. At the hearing, Mr. Ellison explained there was no Rules violation, even if the mistake was deliberate and the flyer was not reprinted as Mr. Travers had reported to the EA's investigator. The flyer was clearly campaign material and the Rules do not regulate the content of campaign material.

I agree with the EA's analysis of this matter and accordingly, I affirm his decision in denying this protest.

s/Kenneth Conboy
Kenneth Conboy
Election Appeals Master

Dated: March 27, 2001