

IN RE:

BRIAN BOSSENBERGER

01 - Elec. App. – 070 (KC)

This matter is an appeal from the Election Administrator's (the "EA") decision 2001 EAD 308, issued April 17, 2001. The hearing was requested by Brian Bossenberger, the protestor, candidate and member of Teamster Local Union 991 in Mobile, Alabama.<sup>1</sup>

A hearing was held before me on May 7, 2001. The following persons<sup>2</sup> were heard by way of teleconference: Jeffrey J. Ellison, Esq. for the Election Administrator's Office; Cynthia Powe, Local Union 991 Election Committee Chairperson; and Judy Chapa, Vice President of Local Union 991. An additional submission was received by this office from Ms. Powe on May 4, 2001.

Claiming only 1650 ballots were necessary, the protestor alleged that two hundred and fifty extra ballots were printed for the Local Union 991 delegate election and were unaccounted for on the day of the ballot count. The EA's investigation showed that a total of 1,900 ballots were printed and delivered to Mobile Mailing Service ("MMS") for mailing on March 1, 2001, using mailing labels provided by the International Brotherhood of Teamsters. On April 9, 2001, MMS certified that 1,674 of these 1,900 ballots were mailed, 52 re-mails were sent out and 172 ballot packages were left over. This accounts for 1,898 ballots, two short of the total ballots printed. On the day of the count, the ballots were picked up by EA representative

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<sup>1</sup> Mr. Bossenberger mistakenly faxed his appeal request to the Office of the Election Administrator on April 20, 2001, and was not received by this office until May 1, 2001.

Dolores Hall, Ms. Powe, David Smith, independent delegate candidate, Frank Davis, as representative for Mr. Bossenberger, and another observer. Ms. Powe was asked by Mr. Davis about the extra ballots, and she told him that because of a Department of Labor investigation, she decided not to keep the extra ballots at the local union hall. Instead, the extra ballots were being kept by MMS, which was responsible for sending out extra ballots at members' requests.

In his appeal request, Mr. Bossenberger raised questions as to why: (a) two hundred and fifty ballots were printed; (b) weren't witnesses deposed and statements taken; (c) Ms. Powe, an employee of Mr. Sullivan, was election committee chairperson; and (d) were the extra ballots not retrieved until almost a month after the ballot count.

Unfortunately, Mr. Bossenberger has provided only questions but no evidence as to any wrongdoing concerning the ballot count. By all accounts, according to those present, there were no irregularities and when asked, independent candidate Mr. Smith acknowledged that he had no objection to the way the election was handled.

I am satisfied that the EA's facts and analysis in this matter are correct.

Accordingly, I affirm the EA's decision in this matter in all respects.

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s/Kenneth Conboy  
Kenneth Conboy  
Election Appeals Master

Dated: May 14, 2001

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<sup>2</sup> Mr. Bossenberger was sent a scheduling letter, dated May 1, 2001, by UPS Next Day, notifying him of the appeal hearing. UPS tracking showed it was delivered to the address indicated on Mr. Bossenberger's appeal request on May 2, 2001. Mr. Bossenberger never called this office to request to participate in the hearing.