

IN RE:

DENNIS SPEAK

01 - Elec. App. – 072 (KC)

This matter is an appeal from the Election Administrator’s (the “EA”) decision 2001 EAD 331, issued April 30, 2001. The hearing was jointly requested by Dennis R. Speak, delegate candidate on the “Dennis Speak Team Slate” (the “DS Team”) from Teamsters Local Union 41, in Kansas City, Missouri and Harold McLaughlin, vice-president of Local Union 41.

A hearing was held before me on May 8, 2001. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq. for the Election Administrator’s Office; Mr. Speak; Mr. Laughlin; C.B. “Doc” Condor, secretary-treasurer of Local Union 41; and Kevin Clavin, Duke Nabors and Don Howerton, all members of the Phil Young/Hoffa Slate (the “YH Slate”). No additional submissions were received by this office.

Mr. Speak’s protest alleges that members of the YH Slate committed numerous Rules violations. For the purpose of this hearing, Mr. Speak is only appealing: (a) paragraph 15 of the decision that alleged that the YH Slate improperly used a telephone bank to call members of Local Union 41; and (b) paragraph 16, which alleged that the YH Slate improperly mailed to members campaign literature with an endorsement by General President James P. Hoffa, with a disclaimer that Mr. Hoffa was acting only in his individual capacity¹.

¹ The EA determined that the disclaimer printed on the back of the campaign material was sufficient to satisfy the Rules requirement.

The EA denied the allegations in both cases. As to paragraph 15, the EA's investigation found that the polling was not conducted by the local union YH Slate, but by the international Hoffa Unity Slate, whom the YH Slate supports in the International election. Under Article VII, Section 3(a)², the Hoffa Unity Slate obtained a membership list, contracted with a third party vendor to obtain phone numbers of Local Union 41 members, sent these numbers to SHG Consulting, who then called Local Union 41 members on behalf of the Hoffa Unity Slate to determine their voting preferences. The EA determined that these activities did not violate the Rules, and that the polling done by the Hoffa Unity Slate was "...legitimate political activity designed to identify slate supporters and encourage them to vote in the Local [Union] 41 election." (See, Page 7, 2001 EAD 331 (April 30, 2001). With regard to paragraph 16, the EA concluded that Article XI, Section 1(b)(9)(B)³ allowed the Hoffa Slate to pay for the mailers, and Article VII, Section 3(a) permitted Mr. Young, an International officer candidate, to obtain a membership list from the EA's office from which to create the mailing labels. The EA concluded that these, in addition to other allegations, were insufficient to justify a rerun election.⁴

² Article VII, Section 3(a) states that "Use of a membership list in support of the election of delegate and/or alternate delegate candidates shall not constitute misuse of the list, provided that the list is used solely to advance the accredited or nominated candidate's campaign for nomination and/or election."

³ Article XI, Section 1(b)(9)(B) holds, "Candidates or slates in the International election... may use contributions received and properly reported under the Rules to support candidates for delegate or alternate delegate positions, but may not transfer funds to candidates or slates in the delegate election."

⁴ The EA wrote that the incidents alleged by the protestors were "... isolated incidents in a large local union and, unlike those prior cases in which we have ordered a rerun election, involved neither improper use of union resources coupled with an attempt to cover-up the improper use, *Richards*, 2001 EAD 328 (April 26, 2001), nor an eve of ballot mailing distribution of materials in violation of the *Rules*, *Noll*, 2001 EAD 294 (March 31, 2001), *aff'd*, 01 EAM 56 (April 6, 2001), *DePietro*, 2001 EAD 324 (April 20, 2001), *aff'd*, 01 EAM 62 (April 27, 2001). In contrast to such cases, we find that the minor violations here did not affect the results of the election at Local 41. (See, page 10, 2001 EAD 331 (April 30, 2001)).

Mr. Speak and Mr. Laughlin allege in their appeal⁵ that since they did not have access to any accredited International officer candidate, the DS Team was not eligible for the membership list and/or the phone numbers of Local Union 41 members, and therefore could not conduct their own telephone polling. They argue that the YH Slate, because of its support of the candidacy of Mr. Hoffa and his slate, reaped the benefits of this support and thereby had an unfair advantage, impossible to overcome, and enough to affect the outcome of the delegate election. Mr. Condor, on behalf of the YH Slate, argued that the mailer and the polling were done to further the candidacy of Mr. Hoffa, not the YH Slate, and there was nothing improper about the assistance provided by the Hoffa Unity Slate.

I concur with the analysis and factual findings of the EA. The Rules provide that the Hoffa Unity Slate was entitled to use the membership list to promote the candidacy of the YH Slate, and that the polling and the mailing were viable means of support. I find no improper use of either the membership list or the funds used to send out the mailers by either the Hoffa Unity Slate or the YH Slate. Accordingly, I affirm the EA's decision in this matter.

_____/s/Kenneth Conboy_____
Kenneth Conboy
Election Appeals Master

Dated: May 23, 2001

⁵ Mr. Condor, who did not file an appeal, alleged procedural defects in the Speak/McLaughlin appeal, to the effect that the appeal was not filed within two (2) working days of receipt of the decision, and there was no notice as to the basis of their appeal, both being requirements of Article XIII, Section 2(i). Mr. Speak admitted he did not send all parties copies of his appeal. As to the allegation of untimeliness, Mr. Condor relied on the letter from this office scheduling the appeal, which was determined to have a typographical error as to the date the appeal was received by this office. It was resolved that the appeal of Mr. Speak and Mr. McLaughlin was timely filed.