

ELECTION APPEALS MASTER

IN RE:

TOM LEEDHAM RANK AND FILE POWER
SLATE

01 Elec. App. 083 (KC)

This matter is an appeal from the Election Administrator's decisions 2001 EAD 448 and 2001 EAD 452 issued September 12, 2001 and September 14, 2001 respectively. The appeal hearing was requested by Bradley T. Raymond, Esq. of Finkel, Whitefield, Selik, Raymond, Ferrara & Feldman on behalf of the International Brotherhood of Teamsters and Barbara Harvey, Esq. on behalf of Teamsters for a Democratic Union.

A hearing was held before me on September 17, 2001. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq., for the Election Administrator's Office; Betty Grdina, Esq. of Yablonski, Both & Edelman on behalf of the Tom Leedham Slate; Stephen Ostrach of the Leedham Campaign; J. Douglas Korney, Esq. on behalf of the Hoffa Unity Slate and Bradley T. Raymond, Esq. of Finkel, Whitefield, Selik, Raymond, Ferrara & Feldman on behalf of the International Brotherhood of Teamsters.

Here, the Leedham Slate protest asserts that the International Brotherhood of Teamsters continues to endorse the Hoffa Slate through maintenance on its website of "unity, pride, strength" references, which words in combination were found in Martinez II, 01 EAM 87 (August 17, 2001) to be a surrogate for the Hoffa Slate's campaign slogan.

Following disposition of the Martinez II case the International Brotherhood of Teamsters took extensive steps to purge its website of references to the impermissible phrase, and to block access to certain pages containing the “unity, pride, strength” slogan. The website contains a notice that appears in response to clicks on the links displayed on the home page:

This Page Unavailable

The Election Administrator has ordered the International Brotherhood of Teamster in Protest Decision 2001 EAD 414 (July 27, 2001) to cease and desist using certain words. Information on the page you have selected may contain those words or their derivatives and may be in violation of the election rules.

As a result of this decision, the International Brotherhood of Teamsters has been required to make a vast majority of the website unavailable until completion of the Teamsters election on November 14, 2001.

The Election Administrator finds that the “certain words” reference does not meet the remedy requirements of Martinez II and ordered that a notice be posted on the website that in substance requires the website visitor be told that “the page you have selected is unavailable because it may contain an improper endorsement and be in violation of the Rules.” The Election Administrator’s imposed notice also contains a declaration that the IBT improperly used the website to endorse the Hoffa candidacy.

The IBT objects to the remedy imposed, upon the grounds that it made a self-initiated, good faith effort to purge or block the offending references, and that the “certain words” reference represented a sensible and pragmatic way to explain the reason for access blockage.

The Leedham Slate has petitioned me to reverse (by vastly expanding) the Election Officer’s remedy and ordering a broad “equal space” remedy. I have

examined the materials submitted in the letters from Barbara Harvey, Esq. with her letters of September 17, 2001 and September 20, 2001.

The decision of the Election Administrator is affirmed.

____s/Kenneth Conboy_____
Kenneth Conboy
Election Appeals Master

Dated: September 25, 2001