

ELECTION APPEALS MASTER

IN RE:

JAMES ANDERSON

Protestor

11 Elec. App. 56 (KC)

ORDER

This matter is an appeal from the Election Supervisor's decision 2011 ESD 307 issued on August 15, 2011. A Hearing was requested by Julian J. Gonzalez, Esq. on behalf of the Sandy Pope Campaign .

A hearing was held before me on August 16, 2011. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq., for the Election Supervisor's Office; Barbara Harvey, Esq.; David J. Hoffa, Esq. for the Hoffa-Hall Campaign; Julian Gonzalez, Esq. for the Pope Campaign; and Mark Harrington.

The core complaint at the heart of the original protest in this case is a single sentence in a Local 25 union financial publication stating that the Local's Secretary-Treasurer, Mark Harrington ".....look(s) with great pride being able to cast a vote for our own president [Sean O'Brien] in his quest on his journey to become an International Union Vice-President". The Spokesman, Summer 2011 at 18.

The Election Supervisor found as a fact that this violation created an improper campaign benefit not only for Sean O'Brien in his race against the other candidates for International Union Vice President, but for all the candidates on the Hoffa-Hall 2011 Slate, including its candidate for General President, James Hoffa. Decision, dated August 5, 2011 at 2.

Accordingly, the Election Supervisor as part of his remedy ordered a mailing to the full membership of the Local and authorized not only O'Brien to create and benefit from such a level the playing field campaign mailing, but extended the benefit to O'Brien's full

Gegare-Sheard Slate, including Fred Gegare, one of two candidates for General President opposing Mr. Hoffa.

Inexplicably, Jeffrey Ellison in his appeals statement for the Election Supervisor dated April 15, 2011 asserts that “the Election Supervisor found that the violation was limited to campaign support of a candidate for regional office and ordered a remedy for candidates for that office” at 1. This is flatly contradicted by the language of the decision referenced above.

Now comes the third candidate in the General President race Sandy Pope, campaigning without a Slate, who insists that she has been injured just as the Election Supervisor found that Mr. Gegare has been injured. She insists that a level playing field in the General President election requires that she be given the right to have a mailing to Local 25’s membership on the same terms as Mr. Gegare.

The Election Supervisor argues that her complaint should be ignored because (a) she is not running as part of a Slate and (b) she made no initial protest of her own. These are specious arguments.

As counsel for Ms. Pope astutely points out, under the present outcome “both Hoffa and Gegare benefit from union-subsidized access to the Local 25 membership, while only Ms. Pope is denied this opportunity....if the benefit were truly individual, and did not accrue to the Slate as a whole, then presumably the Election Supervisor would have ordered that all candidates for Eastern Region Vice President be allowed a remedial mailing”. Letter of Julian Gonzalez dated August 9, 2011, at 1.

The imposed remedy of the Election Supervisor is affirmed in part and reversed in part. He is directed to modify that portion of the remedy dealing with the campaign mailing granted to the Gegare-Sheard Slate and extend that right to candidate for General President Sandy Pope.

So ordered.

s/Kenneth Conboy
Kenneth Conboy
Election Appeals Master

Dated: August 19, 2011