

**OFFICE OF THE ELECTION SUPERVISOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

IN RE: WADE LASZLO,)	Protest Decision 2011 ESD 87
)	Issued: January 27, 2011
)	OES Case Nos. P-068-010311-MW
Protestor.)	& P-074-011011-MW
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Wade Laszlo, member of Local Union 320, filed 2 pre-election protests pursuant to Article XIII, Section 2(b) of the Rules for the 2010-2011 IBT International Union Delegate and Officer Election (“*Rules*”). The protests alleged *Rules* violations on the website of the Sue Mauren slate, which is competing in the local union’s delegates and alternate delegates election.

These protests were consolidated for investigation and decision. Election Supervisor representative Joe Childers investigated them.

Findings of Fact and Analysis

Mauren is principal officer of Local Union 320 and a delegate candidate. She maintains what is termed a “personal website” at <http://suemauren.com>. The homepage states that Mauren is “seeking election during 2011 as a delegate for the IBT general election” and that the site “has been designed as a source for members to gain access into the accomplishments and successes of Sue during her time as Secretary/Treasurer. Sue welcomes you to her website and has provided information on her current election campaign along with information on the current delegate slate.” A “Meet the Slate” page displays names and photos of candidates for 13 delegate and 4 alternate delegate positions. The “Important Dates” page lists the dates for nominations, mailing of ballots, and ballot count in the delegates and alternate delegates election.

Other pages of the website refer to the local union officers election held in October 2010. Thus, flyers and video on the “Literature” and “Video” pages refer to that election, as do captions on several photos that appear on the “Photos” page.

Still other pages make no reference to either election. Such pages include the “About Sue Mauren” page that features an autobiographical piece, a “Meet the Officers” page that displays names, photos and brief biographies of the 7 elected members of the local union executive board, and a “Straight Talk” page that lists accomplishments of the Mauren administration.

The bottom of the website’s homepage displays the following notice: “Web Design and Hosting by Razworks.” Investigation found that Razworks, LLC is a Florida web design and hosting company owned by Michael and Debbie Russell. Razworks, routinely charges its customers for design and hosting services, but it waived those fees for the Mauren website. The protest alleged that these services were donated by a non-Teamster in violation of the *Rules*.

Mauren argues that Article XI, Section 1(b)(4) applies to this situation. That provision prohibits contributions to any “candidate, slate or independent committee” from “any nonmember,” but excepts from the definition of “nonmember” the member’s immediate family,

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“which is defined as a member’s spouse, parents, children or siblings, unless such member is otherwise ineligible to contribute under these Rules.” Mauren submitted, and investigation found, that Debbie Russell is the sister of Brian Aldes, a delegate candidate on the Mauren slate. For this reason, Mauren asserts that the web design and hosting contribution to the slate came from a sibling of a slate member, which does not violate the *Rules*. We disagree. The contribution is from Razworks, as the homepage of Mauren’s site confirms. The Razworks business cannot make a non-member contribution under the sibling exception of Article XI, Section 1(b)(4). Accordingly, we GRANT this aspect of the protest.

The protest also alleged that the website’s use of the IBT horses-and-wheel logo constitutes an impermissible union contribution to the slate. While Article XI, Section 1(b)(6) prohibits use of union stationery, “[o]ther use of the Union’s name, insignia or mark by Union members, in connection with the exercise of rights under these Rules, is permitted.” This language has been held to permit use of the IBT logo in campaign material. *Brazeau*, 2001 EAD 316 (April 18, 2001); *Watts*, 2006 ESD 146 (March 17, 2006). Accordingly, we DENY this aspect of the protest.

The protest’s next allegation was that the Mauren website made a false claim on a photo caption on the “Photos” page that the Mauren slate sponsored local union picnics during 2010. Under established precedent, we do not regulate content of campaign material. *See Sandford*, 2006 ESD 142 (April 3, 2006) (the *Rules* are not intended to “ensure the accuracy and truth of campaign materials”). Therefore, we DENY this aspect of the protest.

The protest alleged that a photo of Brett Ohnstad, a Mauren slate member employed by Hennepin County, violated the *Rules* as an impermissible employer contribution because he was wearing his uniform in the photo, which allegedly was taken on work time (as indicated by a clock in the photo that showed 9:12 a.m.). We DENY this allegation as well. Photos depicting members in their work uniforms have been held not to constitute employer contributions. *Ostrach & Hoffa-Keegel 2006*, 2006 ESD 304 (June 24, 2006) (protest denied where “literature depicts people as Teamster members working in or around equipment used in their jobs, or wearing work uniforms. The *Rules* do not prohibit showing members in campaign literature in real – or even staged – work settings.”) Further, investigation showed that Ohnstad was on break at the time the photo was taken and therefore did not engage in campaign activity on time paid by the employer. Finally, the employer told our investigator “there is not a policy specifically banning the use of the County uniform in this situation.”

The protest also claimed that some photos used on the Mauren website were the property of Local Union 320 while others belonged to the IBT. This allegation implicates Article VII, Section 12(c), which prohibits use of union assets “to assist in campaigning unless the Union is reimbursed at fair market value for such assistance and unless all candidates are provided equal access to such assistance and are notified in advance, in writing, of the availability of such assistance.” Also relevant is Article XI, Section 1(b)(3), which prohibits a union from contributing, “directly or indirectly, anything of value, where the purpose, object or foreseeable effect of the contribution is to influence, positively or negatively, the election of a candidate ... No candidate may accept or use any such contribution.” Investigation showed that several of the photos the protest complained of were taken with Mauren’s camera and are her property. Use of such photos does not violate the *Rules*, and we DENY this aspect of the protest.

Mauren admitted that other photos on her site were downloaded from the IBT website, teamster.org, which she asserted “does not restrict access to these photos nor does it restrict any person from downloading them, even if that person is not a member. Because there is equal access, there is no violation of the *Rules*.”

The IBT website is a union asset, as are the photos that appear there. Article XI, Section 1(b)(6) declares that a candidate may not use such union-owned “things of value” unless the IBT has given advance written notice of the availability of such photos for campaign use and it is compensated for their fair market value. In the 2001 and 2006 election cycles, the IBT announced policies permitting candidates to purchase “published photos” from it for \$150 per photo. *Ostrach & Hoffa-Keegel 2006*, 2006 ESD 304 (June 24, 2006). In June 2010, IBT announced a similar policy for the current election cycle. That policy satisfies both criteria: it gives advance written notice and it sets a reasonable price that approximates fair market value for each photo.

The current photo policy does not apply to the IBT website or photos that appear there. The IBT does not copyright its site and treats the contents there as available for download by anyone without compensation to the IBT. The IBT, however, has not given advance written notice to all candidates that its website photos were available for any candidate to use free of charge. Mauren learned of or deduced this availability through her own efforts. Article XI, Section 1(b)(6) is intended, however, to make available to all candidates the same information about the terms of access to a union resource. In this case, because the IBT website carried no copyright notice, concluding that the photos could be copied without charge was a straightforward deduction. Mauren’s campaign did not avoid an expense or save money because there was and is no charge for using the posted photographs. Moreover, the IBT has now made clear to candidates that website photographs may be used freely. Accordingly, we deem this aspect of the protest RESOLVED.

Remedy

When the Election Supervisor determines that the *Rules* have been violated, he “may take whatever remedial action is deemed appropriate.” Article XIII, Section 4. In fashioning the appropriate remedy, the Election Supervisor views the nature and seriousness of the violation as well as its potential for interfering with the election process.

We direct Sue Mauren and the Mauren slate to cease and desist from accepting the web design and hosting services of Razworks without compensation. Within two (2) days of receipt of this decision, we direct Mauren and the Mauren to pay the usual and customary fees that Razworks charges its customers for like services. Within two (2) days following such action, we direct Mauren to submit a compliance affidavit to our offices.

We also direct Mauren and the Mauren slate, within two (2) days of receipt of this decision, to post on the homepage of <http://suemauren.com> the notice attached to this decision. Such posting shall appear in the first, uppermost position on the page, immediately beneath the masthead, and remain in that position for a period of 30 days.

A decision of the Election Supervisor takes immediate effect unless stayed. *Lopez*, 96 EAM 73 (February 13, 1996).

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Any interested party not satisfied with this determination may request a hearing before the Election Appeals Master within two (2) working days of receipt of this decision. The parties are reminded that, absent extraordinary circumstances, no party may rely upon evidence that was not presented to the Office of the Election Supervisor in any such appeal. Requests for a hearing shall be made in writing, shall specify the basis for the appeal, and shall be served upon:

Kenneth Conboy
Election Appeals Master
Latham & Watkins
885 Third Avenue, Suite 1000
New York, NY 10022
Fax: (212) 751-4864

Copies of the request for hearing must be served upon the parties, as well as upon the Election Supervisor for the International Brotherhood of Teamsters, 1801 K Street, N.W., Suite 421 L, Washington, D.C. 20006, all within the time prescribed above. A copy of the protest must accompany the request for hearing.

Richard W. Mark
Election Supervisor

cc: Kenneth Conboy
2011 ESD 87

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DISTRIBUTION LIST (BY EMAIL UNLESS OTHERWISE SPECIFIED):

Bradley T. Raymond, General Counsel
International Brotherhood of Teamsters
25 Louisiana Avenue, N.W.
Washington, D.C. 20001
braymond@teamster.org

David J. Hoffa
Hoffa Hall 2011
1100 Connecticut Avenue, N.W., Ste. 730
Washington, D.C. 20036
hoffadav@hotmail.com

Ken Paff
Teamsters for a Democratic Union
P.O. Box 10128
Detroit, MI 48210-0128
ken@tdu.org

Barbara Harvey
1394 E. Jefferson Avenue
Detroit, MI 48207
blmharvey@sbcglobal.net

Fred Gegare
P.O. Box 9663
Green Bay, WI 54308-9663
kirchmanb@yahoo.com

Scott D. Soldon
Previant Goldberg
1555 North RiverCenter Drive, Ste. 202
P.O. Box 12993
Milwaukee, WI 53212
sds@previant.com

Fred Zuckerman, President
Teamsters Local Union 89
3813 Taylor Blvd.
Louisville, KY 40215
fredzuckerman@aol.com

Robert M. Colone, Esq.
P.O. Box 272
Sellersburg, IN 47172-0272
rmcolone@hotmail.com

Carl Biers
Box 424, 315 Flatbush Avenue
Brooklyn, NY 11217
info@SandyPope2011.org

Wade Laszlo
5425 152nd Avenue
Ramsey, MN 55303-6115
steward320@msn.com

Sue Mauren, Secretary-Treasurer
Teamsters Local Union 320
3001 University Avenue SE #500
Minneapolis, MN 55414
local320@teamsterslocal320.org

Joe F. Childers
Getty & Childers, PLLC
250 West Main Street, Suite 1900
Lexington, KY 40507
childerslaw@yahoo.com

William C. Broberg
1108 Fincastle Road
Lexington, KY 40502-1838
wcbroberg@aol.com

Kathryn Naylor
Office of the Election Supervisor
1801 K Street, N.W., Suite 421 L
Washington, D.C. 20006
knaylor@ibtvote.org

Jeffrey Ellison
214 S. Main Street, Ste. 210
Ann Arbor, MI 48104
EllisonEsq@aol.com

OFFICE OF THE ELECTION SUPERVISOR
for the INTERNATIONAL BROTHERHOOD OF TEAMSTERS
1801 K STREET, N.W., SUITE 421 L
WASHINGTON, D.C. 20006
202-429-8683
877-317-2011 TOLL FREE
202-429-6809 FACSIMILE
electionsupervisor@ibtvote.org
www.ibtvote.org

Richard W. Mark
Election Supervisor

The Election Supervisor has found that Sue Mauren and the Mauren slate violated the *Election Rules* by accepting web design and hosting services for the Mauren website from Razworks LLC, a commercial web design and hosting service. Campaign contributions from non-members are strictly prohibited by the *Rules*. The Election Supervisor has directed Mauren to pay Razworks its usual and customary charges for the services provided and to cease using non-member contributions to campaign.

The Election Supervisor has issued this decision in *Laszlo*, 2010 ESD 87 (January 27, 2011). You may read this decision at <http://www.ibtvote.org/protests/2010/2011esd087.htm>.

Any protest you have regarding your rights under the *Rules* or any conduct by any person or entity that violates the *Rules* should be filed with Richard W. Mark, 1801 K Street, N.W., Suite 421L, Washington, D.C. 20006, telephone: 877-317-2011, fax: 202-429-6809, email: electionsupervisor@ibtvote.org.