

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

IN RE: ANTHONY SGRILLO,)	Protest Decision 2011 ESD 170
)	Issued: March 21, 2011
Protestor.)	OES Case No. P-134-021411-ME
_____)	

Anthony Sgrillo, member of Local Union 107 and candidate for delegate, filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2010-2011 IBT International Union Delegate and Officer Election (“*Rules*”). The protest alleged that a campaign mailer by the Hamilton-Dougherty slate violated the *Rules* and that the local union’s procedures for candidate mailings were unreasonable.

Election Supervisor representative Denise Ventura investigated this protest.

Findings of Fact and Analysis

Local Union 107 is entitled to elect three delegates and one alternate delegate. The Hamilton Dougherty slate was comprised of President William Hamilton, Vice President Ed Slater, and Secretary-Treasurer Shawn Dougherty as candidates for delegate and Recording Secretary Ed Shaw for alternate delegate.

Hamilton Dougherty sent a four-page campaign mailer to members. The mailer stated the following, in part:

Valued Member – Use Your Vote Wisely!
This Delegate Election is important. It elects the people who will cast their vote for who YOU want to run our great International Teamster Union.
You need to vote for the people you have already elected to represent you in Teamsters Local 107 and let them speak for you at the convention the same way they speak for you every day in Local 107 interactions and dealings.
You need to vote for your current executive board members, who’s [*sic*] job it is every day to do what is in the best interest of you ... our valued members!
Make this your ballot entry to re-elect the Hamilton Dougherty Slate to keep the same successful leaders!

This message was flanked on the same half-page with a “sample ballot” listing the candidates on the slate and the message “Vote the Full Slate for Hamilton Dougherty.”

The inside of the mailer contained photos and lengthy profiles of each of the candidates on Hamilton Dougherty, emphasizing their experience as union representatives and current elected officers and executive board members. Hamilton’s profile filled a half page, listed six positions he has held, and touted his leadership and experience. The profiles of the remaining three members of the slate shared another page of the mailer. As with Hamilton’s, the biographies of Dougherty, Slater and Shaw listed their current union offices and their leadership credentials and experience.

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Another page of the mailer was devoted to attacks on the opposing candidates, protestor Sgrillo included. The mailer stated that Sgrillo is a perennial candidate who “allegedly has a Police Rap sheet as long as your arm.” The mailer listed a number of criminal offenses for which Sgrillo allegedly had been arrested, before concluding: “Truly a violent history for someone who wants to be a leader of our great union.”

Each page of the mailer contained the following notice: “This mailing has been paid for by the Hamilton Dougherty Slate. No Union funds were used.”

The protest first contended that the phrase “re-elect the Hamilton Dougherty Slate” misinformed members that Hamilton Dougherty had previously been elected as delegates when, to protestor’s knowledge, a slate so named had not previously been elected to those positions.

We DENY this aspect of the protest, as we have repeatedly held that we are without authority to regulate the content of campaign literature. *Sandford*, 2006 ESD 142 (April 3, 2006). “The *Rules* are not intended to censor ... or ensure the accuracy and truth of campaign materials.” *Yolland*, P660 (April 3, 1996); *Hoffa 2006*, 2006 ESD 360 (September 29, 2006); *Laszlo*, 2011 ESD 159 (March 10, 2011), *aff’d*, 11 EAM 26 (March 17, 2011).

The protest next alleged that Hamilton Dougherty was “campaigning as union officials to endorse their candidacy as Delegates at the 2011 IBT convention.” We DENY this claim as well. Candidates do not violate the *Rules* by listing union positions they hold or have held, as doing so does not convey the endorsement of the union as such.

The protest further alleged that Hamilton Dougherty impermissibly accessed local union records to obtain identifying information that would allow the slate to obtain Sgrillo’s arrest record. Sgrillo presented no evidence to support this allegation, and our investigation found none. Hamilton told our investigator that the information about Sgrillo’s arrest records was several years old and had been used in a previous election in which Sgrillo was a candidate. Accordingly, we DENY this portion of the protest.

Finally, the protest alleged that Sgrillo was not advised of the procedures by which he could have campaign literature distributed to the local union membership. Investigation showed that Sgrillo was provided the written procedures for literature distribution after he was nominated as a candidate. Those procedures required any candidate or slate seeking to mail campaign literature to make written request to the local union for mailing labels and to pay \$26 for the cost of producing the labels. In addition, the procedures required that the candidate or slate schedule a date and time for addressing the literature at the local union hall.

Sgrillo also complained that the procedures “impos[ed] a deadline for making requests to mail literature and, as a result, refus[ed] to comply with an otherwise reasonable request.” Investigation showed that he emailed the local union requesting mailing labels and announcing that he would visit the hall the next day to label his literature. When he arrived, TITAN operator Jackie Hopkins informed him that another slate was using the conference room to label its literature, that the slate had made written request to do so and had paid the \$26 in advance (which Sgrillo had not done), and that Sgrillo could do his labeling the following day. We find these arrangements were, under the circumstances, reasonable, they satisfied the local union’s

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published procedures, and complied with Article VII, Section 7 of the *Rules* governing distribution of literature. Accordingly, we DENY this aspect of the protest.

Ballots in the election were counted March 9, 2011. The tally showed the following:

Delegate

Shawn Dougherty	726
Ed Slater	722
William Hamilton	720
Ed Taylor	92
Anthony Sgrillo	69

Alternate Delegate

Ed Shaw	709
Jim Price	76
Mike Szarzynski	56

We consider this matter as a post-election protest pursuant to Article XIII, Section 2(f)(2). As we find no *Rules* violation, we need not consider whether the conduct complained of affected the outcome of the election.

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
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