

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

<b>IN RE: FRED GEGARE,</b>	)	Protest Decision 2011 ESD 351
	)	Issued: October 26, 2011
<b>Protestor.</b>	)	OES Case No. P-343-101111-NE
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Fred Gegare 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 Local Union 804 impermissibly used union resources to support the Sandy Pope campaign.

Election Supervisor representative Jeffrey Ellison investigated this protest.

**Findings of Fact and Analysis**

The protest alleged that Local Union 804 used union resources – specifically, “union computers, offices, telephones, and other resources” – to promote the candidacy of Sandy Pope.

The sole evidence presented to support the protest was an email a member of Local Union 804 received from Tim Sylvester, the local union’s president, that supported Pope and criticized Gegare. The subject line of the email read, “Don’t let them play you for a sucker...”; the sender was listed as Tim Sylvester; and the text of the email listed three reasons for opposing Gegare and supporting Pope for IBT General President. The email appeared to be directed at members of Local Union 804 only, as it referred to the local union and addressed issues that were specific to members of that local union only. The email also appeared to use a mail/merge function, as the salutation listed the recipient’s first name. The email listed Sylvester’s title as local union president, indicating that the title was shown for identification purposes only. Finally, the email declared that it was sent by the Pope campaign, listed the campaign address, and displayed a hyperlink to the campaign website.

The person who supplied the email to our investigator stated that he had not provided his email address to Pope campaign and did not know how the campaign acquired it. The protestor presented this statement as proof that the email address was obtained impermissibly from Local Union 804.

Carl Biers, Pope campaign manager, told our investigator that the campaign sent the email in question to 1,386 members of Local Union 804, all the members for whom the campaign had email addresses. This figure represented approximately 20% of the local union membership.<sup>1</sup> Biers stated that the list used for the campaign emailing was drawn from two sources. One source was a list accumulated by the campaign through the circulation of accreditation petitions, email sign-ups at [www.sandypope2011.org](http://www.sandypope2011.org), email update sign-up forms circulated by Local Union 804 members, and sign-in sheets from campaign events. Biers said the other source was a list of email addresses gathered by Local Union 804 members during rank-and-file organizing efforts in that local union,

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<sup>1</sup> According to the delegate strength calculation performed by the office of the IBT General Secretary-Treasurer, the average membership for Local Union 804 for the 24-month period ending March 31, 2011 was 6,746.

which included a contract campaign in 2007, a bylaws reform campaign in 2008, and a campaign for local union office in 2009. Biers stated that the second list belonged to 804 Members United, a rank-and-file group.

Biers denied that any portion of the list used to email the Pope campaign message was obtained from Local Union 804. Tim Sylvester confirmed that no email list of the local union was used to send his campaign email.

The protestor presented no evidence to support its allegation that union computers, offices, telephones and other resources were used to support the Pope campaign. Investigation showed nonetheless that the Pope campaign rented a room at the Local Union 804 facility to telephone members in a get-out-the-vote effort. Sylvester stated that the local union mailed and emailed a letter to the Hoffa and Gegare campaigns and to Teamsters for a Democratic Union, dated September 30, 2010, announcing that “Local 804 will allow some of our union hall to be rented as meeting space for campaign purposes, on an equal basis for all campaigns for IBT office. This is on a space-available basis and per the IBT Election Rules.” Sylvester stated that the Pope campaign contracted for use of “the upstairs meeting room” for six dates in October 2011, at a rate of \$100 per half day or \$200 per full day. Sylvester produced documents to substantiate the September 30, 2010 notice of availability and the transaction with the Pope campaign.

Article VII, Section 12(c) permits use of union facilities and equipment for campaign purposes provided the union is reimbursed at fair market value for such assistance, the assistance is made available to all candidates, and candidates are given advance written notice of the availability of such assistance. Local Union 804 complied with these requirements before letting the contract with the Pope campaign.

Investigation showed that on at least one of the dates for which the Pope campaign contracted, the persons assembled in the local union meeting room conducted GOTV phone banking, using their personal cell phones to call members’ numbers on a list supplied by the Pope campaign. This evidence does not establish a *Rules* violation.

Accordingly, we find no evidence that the Pope campaign used an email list of Local Union 804 for a campaign purpose. Further, we conclude that the campaign’s use of the meeting room at the local union hall complied with the *Rules*’ requirements.

For these reasons, we DENY this protest.

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

***Gegare***, 2011 ESD 351  
October 26, 2011

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 351*

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October 26, 2011

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