



U.S. Department of Justice

*United States Attorney
Southern District of New York*

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May 25, 2010

BY HAND

The Honorable Loretta A. Preska
Chief Judge, United States District Court
Southern District of New York
500 Pearl Street, Room 1320
New York, New York 10007

**Re: United States v. Int'l Bhd. of Teamsters
88 Civ. 4486 (LAP)**

Dear Chief Judge Preska:

We write respectfully to address the memoranda filed by non-parties Teamsters for a Democratic Union ("TDU") and the Association for Union Democracy ("AUD"), which were submitted in response to the joint application of the Government and the International Brotherhood of Teamsters (the "IBT") (collectively, the "Parties") for this Court's approval of the proposed rules for the 2011 IBT Election (the "Proposed 2011 Election Rules" or the "Rules"). TDU suggests six amendments to the agreed-upon Rules, and AUD suggests a single amendment to the agreed-upon Rules. For the reasons set forth below, we respectfully submit that these applications should be denied, and the Proposed 2011 Election Rules should be approved as submitted.

The non-parties' objections should be rejected for two reasons. First, the non-parties have no standing to raise objections to the Parties' agreements. *See United States v. Int'l Bhd. of Teamsters*, 2005 WL 1653854, at *1 (S.D.N.Y. July 14, 2005) ("First, the TDU lacks standing to object to [the] Application"). The process for negotiating the Rules is set out in the Stipulation and Order governing the 2011 IBT Election, signed by this Court on November 17, 2009. That stipulation provides for a negotiation between the Government and the IBT informed by comments by non-parties; it does not, however, grant non-parties standing to object to the Parties' agreement. *See* Stipulation and Order ¶ 4. As this Court explained when TDU sought a modification to the 2006 Rules, "TDU is not a party to the Consent Decree. Nor is it a party to any of the stipulations governing the 2006 IBT election. Accordingly, TDU lacks standing to seek relief here." *United States v. Int'l Bhd. of Teamsters*, 2006 WL 2466246, at *3 (S.D.N.Y. Aug. 25, 2006). This rationale applies equally to AUD. Neither TDU nor AUD has cited any authority to the contrary, and they thus lack standing to object to the Parties' agreement.

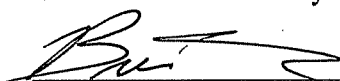
Second, even if the non-parties had standing, neither has raised (or cited any authority for raising) any procedural objections to the Parties' formulation of the Rules. *See United States v.*

Int'l Bhd. of Teamsters, 2005 WL 1653854, at *1 (S.D.N.Y. July 14, 2005) (“Second, even if TDU had standing to object to [the] Application . . ., there is no procedural impediment to the Application.”). Nor could they, as the Parties complied with the Court’s Stipulation and Order. As noted, that stipulation required the Parties to afford “notice and a period of at least thirty (30) days” to any interested parties wishing to comment on the draft Rules. Stipulation and Order ¶ 4. The Parties did so. See Declaration of Brian M. Feldman, dated April 28, 2010 (“Feldman Decl.”), ¶¶ 4-6. The Election Supervisor then provided an analysis of all of the comments to the Parties, and recommended that no changes be made to the draft Rules. *Id.* ¶¶ 7-8 & Ex. F (Election Supervisor analysis). The parties considered those comments and concurred in the Election Supervisor’s recommendation. Feldman Decl. ¶ 8. They therefore fully satisfied the requirements of the Stipulation and Order. That the non-parties disagree with the Election Supervisor’s analysis – based entirely on their own speculation – is a wholly insufficient basis for any objection. Cf. *United States v. Int'l Bhd. of Teamsters*, 2006 WL 2466246, at *4 (“It is not that TDU’s voice is not heard. It is simply not entitled to come to Court when its voice is not heeded.”). The non-parties therefore have not raised, and could not raise, any colorable procedural objection to the Parties’ formulation and submission of the proposed Rules.

For these reasons, the Government respectfully requests that the Court approve the Parties’ joint application and approve the Proposed 2011 Election Rules. We thank the Court for its consideration of this matter and respectfully request that this letter be docketed with the Clerk of the Court and made a part of the record in this case.

Respectfully,

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