

OFFICE OF THE ELECTION ADMINISTRATOR
for the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS

IN RE: HOFFA UNITY SLATE,)	Protest Decision 2001 EAD 456
)	Issued: September 18, 2001
)	OEA Case No. PR091711MW
Protestor.)	
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The Hoffa Unity slate (“Hoffa slate”) filed a pre-election protest pursuant to Article XIII, Section 2(b) of the Rules for the 2000-2001 IBT International Union Delegate and Officer Election (“*Rules*”) against Cliff Chentnik, principal officer of Local Union 325 and a candidate for regional vice president on the Tom Leedham Rank & File Power slate (“Leedham slate”). The protest alleges that Chentnik has used union resources to support his candidacy.

Election Administrator representative Jeffrey Ellison investigated the protest.

Findings of Fact and Analysis

The protest alleges that Chentnik’s local union business card supports his candidacy. The card when folded is the size of a standard business card. The front surface of the folded card lists Chentnik’s name and contact information. Inside the card is a description of so-called “Weingarten” rights and a statement an individual may read to supervision to invoke the rights available under *NLRB v. Weingarten*, 420 U.S. 251 (1975). The back surface of the card repeats Chentnik’s name and states “Rank and File Power” and “Putting Members First.”

The card is printed at local union expense. Chentnik states that he uses the card in the normal course of his duties as principal officer of the local. He denies using it for campaigning.

The Leedham slate has adopted “rank and file power” as part of its name and as its principal campaign slogan. The phrase appears on most of its campaign literature and is featured prominently on its website. “Putting members first” was the slogan of the 1996 Carey campaign. No evidence was presented that the Leedham slate has used it in the current election cycle.

The protestor contends that use of the phrase “rank and file power” on the business card constitutes impermissible union funding for Chentnik’s candidacy on the Leedham slate.

Chentnik argues that he adopted the phrase “rank and file power” well before the Leedham slate assumed it. He further asserts Dane Passo, special assistant to General President James P. Hoffa, expressly approved the printing of his card at local union

expense at a meeting of the local's executive board in December 1999. Minutes of the meeting verify that Passo approved the local's expenditure for business cards; they do not address whether Passo approved the content of the card. Chentnik further asserts that Dotty Malinsky, candidate for central region vice president on the Hoffa slate, challenged the business card as a union-financed campaign tool but that the IBT legal department approved his use of it. Finally, Chentnik argues that he has given his card to General President Hoffa without objection from Hoffa.

In *Martinez*, 2001 EAD 384 (June 11, 2001), *appeal withdrawn* ("*Martinez I*"), we held that the IBT improperly endorsed the Hoffa slate by using in an organizing brochure the same terms and themes used by the Hoffa campaign. We ordered the IBT to refrain from distributing the brochure until the close of the International officer election process.

Assuming without deciding that Chentnik adopted "rank and file power" before the Leedham slate did and obtained approval for use of the phrase on his business card from the IBT, we nonetheless hold that his use of the union-financed business card during the electoral period constitutes impermissible union support for his candidacy on the Leedham slate. The phrase has become so closely identified with the Leedham campaign as to become a proxy for it. Accordingly, we GRANT the protest.

Remedy

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

To remedy the violation here, we order the same remedy we imposed in *Martinez I*. We direct Chentnik to refrain using or distributing the business card at issue here until after completion of the 2001 International officer election.

An order of the Election Administrator, unless otherwise stayed, takes immediate effect against a party found to be in violation of the Rules. *Lopez*, 96 EAM 73 (February 13, 1996).

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 Administrator 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:

Hoffa Slate, 2001 EAD 456
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Kenneth Conboy
Election Appeals Master
Latham & Watkins
Suite 1000
885 Third Avenue
New York, New York 10022
Fax: 212-751-4864

Copies of the request for hearing must be served upon all other parties, as well as upon the Election Administrator for the International Brotherhood of Teamsters, 727 15th Street NW, Tenth Floor, Washington, DC 20005 (facsimile: 202-454-1501), all within the time prescribed above. A copy of the protest must accompany the request for hearing.

William A. Wertheimer, Jr.

William A. Wertheimer, Jr.
Election Administrator

cc: Kenneth Conboy
2001 EAD 456

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