

IN RE:

RON SCHERER

01 - Elec. App. – 013 (KC)

This matter is an appeal from the Election Administrator's decision 2000 EAD 63, issued December 12, 2000 in the Office of the Election Administrator's Case No. PR 110301SO. Ron Scherer, a member of Teamsters Local Union 767 in Forest Hill, Texas and the protestor, requested the appeal hearing on December 15, 2000.

A hearing was held before me on December 22, 2000. The following people were heard by way of teleconference: Jeffery J. Ellison, Esq., for the Election Administrator's Office; Mr. Scherer; Mr. Gerald Thompson, Secretary-Treasurer of Local Union 767; and Mr. Joe Ard, Co-Chair of the Election Committee of Local Union 767.

The appellant in this matter alleges that he was not provided with a complete set of mailing labels that he needed to mail out campaign literature in support of his candidacy for delegate from Local Union 767. The facts as set forth in the Election Administrator's investigation are that on October 26, 2000, mailing labels were timely requested by Mr. Scherer. On November 2, 2000 a day after the ballots were mailed out to Local Union members, Mr. Scherer discovered that the set of labels provided to him and the opposition slate were not complete. When the local union officials offered to provide the missing labels to Mr. Scherer, the protestor refused. The Election Administrator found that since the same number of labels were provided to both slates, there was no discrimination and no violation of Article VII, Section 7(e) of the Rules. In addition, the Election Administrator found that since the protestor refused

the local's offer to provide the missing labels, the protestor, "... must be deemed to have waived any claim of violation of the Rules", (see Decision, Page 2) and denied the protest.

During the appeal hearing, there appeared to be a discrepancy as to the timing of Mr. Scherer's reaction to the problem of the missing labels. According to the protest decision, Mr. Scherer refused the additional labels after he spoke to Mr. Thompson on November 2nd or 3rd. However, according to both Mr. Scherer's and Mr. Thompson's statements at the appeal hearing, Mr. Scherer's conversation with Mr. Thompson may not have occurred until as late as November 7th or 8th. This gives credence to Mr. Scherer's stated reason for refusing the missing labels, i.e. because he believed they would have been too late to be of any practical use to his campaign. This puts into question the Election Administrator's finding of a "waiver" of any claim of a violation by the protestor. Furthermore, it was asserted at the hearing that Mr. Thompson spoke to Alton Green, a member of Mr. Scherer's slate on November 2nd or 3rd, and informed him of the label mishap, but no reference of this conversation, or its significance, appeared in the Election Administrator's decision.

In light of the ambiguity in the record concerning these conversations, Mr. Ellison requested that the protest be remanded to the Election Administrator's office for further investigation. I concur. This matter is accordingly remanded to the Election Administrator for additional investigation.

____s/Kenneth Conboy_____
Kenneth Conboy
Election Appeals Master

Dated: January 3, 2001