

IN RE:

TOM PECK

01 Elec. App. 018a (KC)

This matter is an appeal from the Election Administrator's ("EA") decision 2001 EAD 86, issued January 22, 2001. The appeal hearing was requested on January 24, 2001 by David Zeek, a member of Teamsters Local Union 100 in Cincinnati, Ohio.

A hearing was held before me on January 29, 2001. The following people were heard by way of teleconference: Jeffery J. Ellison, Esq. and Lisa Taylor for the EA's Office; Mr. Zeek; Mr. Ken Barnes, President of Local Union 100; Mr. Timothy Montgomery, election committee chairman for Local Union 100; Ms. Lisa Bowers and Ms. Sarah McFarland, employees of Local Union 100 and the Local Union 100 Titan operators. No further submission were received on this matter.

I received a letter dated January 30, 2001 from Sorrell Logothetis, representing Local Union 100, and a copy of a letter dated January 31, 2001 from the EA to Mr. Logothetis.

At the hearing, the EA candidly and correctly informed me that his decision in the matter of Tom Peck's eligibility to run for delegate was based on flawed fact finding, and requested that I reverse his decision and find Mr. Peck eligible to pursue his candidacy. The EA explained, soundly and prudently, that the usual remand procedure was impractical because of time constraints associated with the printing and mailing of the ballots.

As must be obvious to all those who have participated in the IBT election cycles during the past ten years, under the various sets of Election Rules the EA has the final authority on fact finding, except where there is an abuse of discretion. Furthermore, the broad purpose of

the Rules and the Consent Decree is the building of electoral participation of the rank and file in the democratic process, not the stifling of candidacies where disqualification is not based upon sound fact finding.

Although it may be theoretically accurate to say that an eleventh hour reversal on the merits by the EA put those opposed to Mr. Peck's candidacy at a disadvantage: (a) the decisive facts were well known to all interested parties well in advance of the hearing; (b) no one during the hearing asked for even a twenty-four hour continuance to develop counter arguments; and (c) since the claim now is that no new facts were advanced by the EA to justify his reversal, no harm with respect to notice occurred.

The EA's formal decision is, at his invitation, reversed and eligibility of Mr. Peck to run for delegate is confirmed.

_____/Kenneth Conboy_____
Kenneth Conboy
Election Appeals Master

Dated: February 14, 2001