

IN RE:

TIM SYLVESTER

01 - Elec. App. – 060(KC)

This matter is an appeal from the Election Administrator’s (the “EA”) decision 2001 EAD 288, issued March 31, 2001. The hearing was requested by William Hoefler, a candidate for alternate delegate on the “BQM Is The One” Slate (the “BQM” Slate) and a member of Teamsters Local Union 804 Long Island City, New York.

A hearing was held before me on April 9, 2001. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq. for the Election Administrator’s Office; Mr. Hoefler; Vincent Monte, candidate for alternate delegate on the BQM Slate and member of Local Union 804; Claude Bonaguro, candidate for alternate delegate on the BQM Slate and member of Local Union 804; John Richiusa, member of Local Union 804; Betty Grdina, Esq., on behalf of the Tom Leedham Campaign; Tim Sylvester, the protestor and candidate for delegate on the Leedham Rank & File Slate; Matt Ginsberg, campaign manager for the Leedham campaign; and Kim Kaplan, Esq., on behalf of UPS. No additional submissions were received by this office.

This protest alleged that members and supporters of the allied Redmond and BQM Slates campaigned inside the UPS facility in Maspeth, New York in violation of both the Rules and UPS policy that prohibits campaigning on its premises.

The EA’s investigation found that members of the Redmond and BQM Slates and Mr. Richiusa, a supporter of the BQM Slate, entered the UPS facility on what they professed to be non-campaign related matters. However, witnesses claim they saw Mr. Richiusa and

members of both slates campaigning and handing out flyers inside the facility and that drivers leaving the building were carrying yellow flyers that belonged to the BQM Slate. The members of the BQM Slate deny campaigning or handing out materials while inside the building and declare that all campaign related materials were left outside the facility.

Based on his investigation, the EA concluded that campaigning took place inside the facility¹ and concluded that the Redmond and BQM Slates had violated the prohibition against employer contributions under Article XI, Section 1(b)(2) by indirectly appropriating a “thing of value” (access to the facility) from UPS². As a remedy, the EA ordered the supporters of the BQM and Redmond Slates to cease and desist from receiving or taking any campaign contributions, and that the BQM Slate was responsible for posting a notice on all worksites under Local Union 804 jurisdiction. Members of the BQM Slate urge that the remedy be modified to only require the notice be posted at the Maspeth facility where the unauthorized campaigning took place.

As I have noted many times before, the EA’s findings of fact are to be given substantial deference. I concur with the EA’s analysis of the facts and the remedy imposed in this matter. Accordingly, I affirm the EA’s decision in this matter in all respects.

S/Kenneth Conboy
Kenneth Conboy
Election Appeals Master

Dated: April 19, 2001

¹ The EA found no evidence that UPS invited, permitted, authorized or condoned campaigning by any slate inside the facility.

² Article XI, Section 1(b)(2) states that no employer may contribute “...directly or indirectly, anything of value... These prohibitions extend beyond strictly monetary contributions made by an employer and include contributions or use of employer stationery, equipment, facilities and personnel.”