

IN RE:

PHILIP DIPIETRO

01 - Elec. App. – 062(KC)

This matter is an appeal from the Election Administrator’s (the “EA”) decision 2001 EAD 324, issued April 20, 2001. The hearing was requested by: (a) Dominick Buscemi, delegate candidate and President of Teamsters Local Union 773 in Allentown, Pennsylvania; and (b) Philip DiPietro, the protestor and also a member of Local Union 773.

A hearing was held before me on April 26, 2001. The following persons were heard by way of teleconference: Jeffrey J. Ellison, Esq. for the Election Administrator’s Office; Mr. Buscemi; Susan Boyle, Esq., of Baptiste and Wilder, counsel on behalf of Mr. Buscemi; Mr. DiPietro; Michael Goldberg, Esq., counsel on behalf of Mr. DiPietro; Rick Stauffer, Secretary-Treasurer of Local Union 773; Chuck Hellings, Business Agent for Local Union 773; Brad Yaekel, campaign manager for the “Team 2000 for Hoffa” Slate and member of Local Union 773; and Steve Banus, Business Agent of Local Union 773. No additional submissions were received by this office.

This case involves the unfortunate circumstances of a nullified election for delegate and alternate delegates in Local Union 773 and an ordered rerun election. The critical facts are straightforward and not in dispute:

(a) A campaign flyer was circulated by candidates in the Leedham affiliated “Working Teamsters for Tom Leedham” slate a few days before the ballots were mailed out. The flyer apparently contained false information used to attack Mr. Buscemi, president of Local Union 773, a delegate candidate in the Hoffa affiliated “Team 200 for Hoffa”

slate, in connection with a multi-local pension fund issue that had prominently figured in the campaign;

(b) In response to this apparently false and misleading flyer, John Monahan, Secretary-Treasurer of Local Union 229, prepared and sent to Mr. Buscemi a letter (the “Monahan Letter”) refuting certain critical claims in the flyer, and authorizing Mr. Buscemi to release it in aid of his campaign. Mr. Buscemi did so, without the expenditure of any union funds; and

(c) Unfortunately the Monahan Letter was on official Local Union 229 stationery and dispatched with Mr. Monahan’s official title and authority conspicuously asserted. It specifically referenced the text and argument of the flyer and most importantly, implicitly accuses the candidate-authors of the flyer of telling “half truths and untruths.”

It is undisputed that the use of the Monahan Letter, an official and formal Local Union 229 communication, violated the Rules in that the resources of Local Union 229 were committed in aid of the Buscemi campaign. It is unconvincing to describe this as an inconsequential and “technical” violation. The Monahan Letter came from a high union officer outside of Local Union 773, presumably neutral and objective, literally on the eve of the mailing of the ballots, and contained incendiary campaign argument that stated in effect that the Buscemi election rivals had been caught in flagrante delicto in eleventh hour untruths.

In light of the foregoing, it is equally unpersuasive to argue that the EA erred in concluding that there is a reasonable probability that the Monahan Letter affected the outcome of the election.

Accordingly, the resolution of the protest is affirmed and the remedy imposed by the EA is in all respects affirmed. No additional cost will be imposed upon the Buscemi slate and no explanations beyond the posting of the Notice ordered by the EA will be required.

s/Kenneth Conboy
Kenneth Conboy
Election Appeals Master

Dated: April 27, 2001