

ELECTION APPEALS MASTER

IN RE:

CANDIDATE FORUMS

01 Elec. App. 085 (KC)

On July 30, 2001 the Hoffa Slate appealed the Election Administrator's ("EA") advisory and directives relating to scheduling and procedures for a Candidates' Forum to be conducted on September 20, 2001 in Washington, D.C. under the auspices of the EA.

In substance, the Hoffa Slate complains that the decision of the EA to hold a forum in the absence of the participation of the Hoffa Slate's candidate for General President, and to disseminate a videotape to the rank and file of the Leedham Slate's candidate for General President answering questions put to him by media representatives in lieu of a debate a) exceeded the EA's authority under the Election Rules b) constitutes political partisanship of the EA that is i) adverse to his function and authority under the Rules and the Consent Decree, ii) improperly coercive of the Hoffa Slate and abrogates its political rights to pursue campaign strategy of its choosing and iii) delivers a windfall of publicity and union resources to a rival candidate and c) is an abuse of his discretion under the Rules because costs are expected to exceed \$1 million in monies of the rank and file membership.

The EA concedes that he lacks specific authority in the text of the Rules to fund with membership monies and publicize a unilateral press conference for one candidate if the rival candidate declines to accept his invitation to debate, but insists that such authority may be implied in his obligation to ensure that the electorate is informed of the issues and candidate qualifications in the election campaign.

The Leedham campaign and the Teamsters for a Democratic Union (TDU) support the EA on the basis of previous practice under the Rules, although two previous Election Officers cancelled debates when candidates declined to participate. Reference is made to battle pages, mailing privileges and literature tables, which if made available on a non-discriminatory basis to all candidates, may be funded out of union resources even if one or some of the candidates decline to participate in such campaign information dissemination exercises.

The IBT opposes the EA's position on the ground that a) neither it nor the Government intended or contemplated such a power when the Rules were negotiated and agreed to b) Article I requires adherence to precedents and the Candidate Forum decisions of two previous election officers are dispositive and c) the costs of between \$1 and \$3 million is ipso facto unreasonable.

The Government is silent on whether when negotiating the Rules with the IBT it intended that Article VII, Section 6 would confer upon the EA the power to convert a Candidate Forum into a unilateral press opportunity for one candidate with free mailing benefits exceeding \$1 million in the event that the rival candidate(s) declined an invitation to debate. Instead, the Government argues that the EA has discretion to do so, and insists that conduct converting a debate into a unilateral press opportunity not explicitly contemplated by the Rules would not constitute an abuse of discretion. The Government does recognize that costs incurred in the plan to mail a copy of the videotape to every IBT member must not be unreasonable.

Barbara Zack Quindel, Election Officer, explicitly ruled in writing on June 28, 1996 that the Rule in question is predicated upon "consent" of the candidates, and that any attempt to conduct candidate forums under the Rules must be based upon "voluntary

participation of the candidates for a particular office.” See attachment to Letter of Bradley T. Raymond, Esq. to the Election Appeals Master, dated August 8, 2001. Furthermore, Michael Cherkasky stated in 1998 that “obviously there cannot be a debate with only one candidate so I’m forced to cancel the event” (emphasis added). See letter of Patrick J. Szymanski, Esq. to the Election Appeals Master dated August 9, 2001.

A hearing was conducted on this matter on August 6, 2001 and continued to August 9, 2001. Shortly before the latter hearing, I received a copy of a letter dated August 8, 2001 from Todd Thompson, the campaign manager for the Hoffa Slate to the EA, indicating that, “under protest, the Hoffa Campaign has decided that it will participate in the ‘debate’”. Mr. Thompson confirmed this decision during the argument conducted on August 9.

Accordingly, the aforementioned issues relating to the EA’s authority under the Rules to take certain actions based upon a declination of a candidate to accept an invitation to participate in a Candidate Forum that he organizes, are moot.

I reserve decision on the reasonableness of any uses of union resources to disseminate to the rank and file information about or derived from the debate.

\_\_\_\_\_/Kenneth Conboy\_\_\_\_\_  
Kenneth Conboy  
Election Appeals Master

Dated: August 13, 2001

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