

ELECTION APPEALS MASTER

IN RE:

MARIA MARTINEZ

01 Elec. App. 087 (KC)

CORRECTED COPY

This matter is an appeal from the Election Administrator's decision 2001 EAD 414, issued July 27, 2001. The appeal hearing was requested by Betty Grdina, Esq. on behalf of the Leedham Slate.

A hearing was held before me on August 6, 2001. The following persons were heard by way of teleconference: William A. Wertheimer, Jr., Election Administrator; Patrick Szymanski, Esq. IBT General Counsel; Jeffrey J. Ellison, Esq., for the Election Administrator's Office; Bradley T. Raymond, Esq. of Finkel, Whitefield, Selik, Raymond, Ferrara & Feldman on behalf of the International Brotherhood of Teamsters; Betty Grdina, Esq. of Yablonski, Both & Edelman on behalf of the Leedham Slate; Stephen A. Ostrach, Treasurer of the Tom Leedham Rank & File Power Slate; Lois Tuttle, Esq., Election Administrator Representative of the Election Administrator's Office; Barbara Harvey, Esq. on behalf of Maria Martinez; and Todd Thompson, Campaign Manager of the Hoffa 2001 Unity Slate.

A number of provisions of the Rules for the 2000-2001 IBT International Union Delegate and Officer Election ("Rules") proscribe the use of Union resources to support or endorse the candidacy of an individual or slate. See, Article VII, Section 8 and 11(b), Article XI, Section I (b)(3) and Article XI, Section I (b)(13). Article VII, Section 11 (c) allows the use of

Union facilities and equipment to assist in campaigning as long as the Union is reimbursed by the candidate and the facilities in question are available to all candidates.

In this case, referred to by the parties as Martinez II, the Election Administrator (“EA”) found that the IBT and its spokespersons violated the Rules at the recently concluded International Convention “by employing as the union’s thematic devices the particular words and phrases that have been adopted by or become associated with a campaign” (i.e. the Hoffa Unity Slate Campaign).

The EA made the following factual findings:

- a) the IBT’s theme for the Convention was Building Better Lines Together, as broadly reflected in badges, streamers and event packets distributed to convention attendees;
- b) Convention materials distributed by the IBT also included the phrase “Unity, Pride and Strength” in the packet covering letter and on a placard placed on each delegate’s chair;
- c) IBT streamers bearing the words “Unity, Pride, Strength” were featured in distributed materials;
- d) in speeches, videotapes and a post convention press release, various IBT senior officers, including the General President, referenced the phrases “pride, unity and strength,” “unity, pride and strength”, “unified, proud and strong” and “Unity Pride Strength” (the latter in two videotapes shown to the delegates);

e) immediately following the acceptance speech of insurgent candidate Tom Leedham, the phrase “Unity, Pride, Strength” was projected for more than 30 seconds on screens behind the podium.

The EA had established, in a previous ruling (“Martinez I”) which was not pursued on appeal, that the terms “unity” “Pride” and “strength” in combination or in limited circumstances singly, constitute a major campaign slogan of the Hoffa Slate.

The EA, relying on prior precedent in the highly relevant Lopez decision, P242 (December 19, 1995), aff’d. 96 EAM 51 (January 8, 1996), found the aforementioned usages at the convention a violation of the Rules, as an impermissible endorsement by the IBT of the Hoffa Slate candidacy. In Lopez, the Election Officer found that the use of a Carey Campaign slogan “Putting Members First” in various union publications and communications constituted an endorsement of the Carey candidacy and violated the Rules.

The factual record in this case, not materially challenged by any of those who have filed appeals, (other than to seek to reopen the settled and binding factual findings of Martinez I, which, as noted, was not appealed) indisputably establishes that the IBT repeatedly endorsed the candidacy of the Hoffa Slate by broadly and pervasively repeating the Hoffa Slate campaign slogan (as settled in Martinez I) in speeches, visuals and convention paraphernalia. Indeed, the inference is irresistible that this was planned and choreographed with precisely campaign benefits chiefly in mind. This is astonishing, especially in light of the clear and unequivocal governing precedent in Lopez.

It is argued against the Election Administrator’s decision that he did not apply the conventional tone, content and timing analysis. I conclude that under these facts such an

analysis is unnecessary and irrelevant. To put the matter as clearly as possible, the transmission of an explicitly defined partisan campaign slogan through union resourced facilities without adherence to the narrow and authorized level playing field access provided for in the Rules, is a per se violation of the Rules.

Accordingly, the Election Administrator's decision, including his remedial order, to which I give deference, is affirmed.

_____/Kenneth Conboy _____
Kenneth Conboy
Election Appeals Master

Dated: August 30, 2001